

No. 23A901

Supreme Court, U.S.
FILED
APR - 2 2024
OFFICE OF THE CLERK

In the Supreme Court of the United States

CARL GORDON, APPLICANT,

v.

GAVIN NEWSOM, ET AL., RESPONDENTS

**EMERGENCY APPLICATION FOR STAY PENDING PETITION
FOR WRIT OF CERTIORARI**

TO THE HONORABLE ELENA KAGAN,
Associate Justice of the Supreme Court of the United States and Circuit
Justice for the Ninth Circuit

April 2, 2024

Carl Gordon

CARL GORDON
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Pro se litigant Carl Gordon

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SUPREME COURT, U.S.

PARTIES TO THE PROCEEDING AND RELATED PROCEEDINGS

The parties to the proceeding below are as follows: Applicant CARL GORDON, (Gordon) co-founder and serves as the first steward of the University of the 'Hood®, a public service entity dedicated to revealing and disseminating the truth about America's history, with a particular emphasis on the African and African American experience. Its mission is to promote self-healing, self-respect, and self-love, and to sow the seeds of Black love throughout African American communities in the United States. Gordon is the Plaintiff-Appellant in the court of appeals. Respondents are GAVIN NEWSOM, (Newsom) in his official capacity as the Governor of the State of California; ROB BONTA, (Bonta) in his official capacity as Attorney General of the State of California; SHIRLEY WEBER, (Weber) in her official capacity as Secretary of State of the State of California; STEVEN J. REYES, (Reyes) in his official capacity as Chief Counsel Office of the Secretary of State; DOES, 1-100, Defendants-Appellees in the court of appeals.

THE RELATED PROCEEDINGS BELOW ARE:

United States District Court (Central District of California):

Carl Gordon v. Gavin Newsom, et al. No. 2:21-cv-7270-FMO (MAR) (September 9, 2021) Judgment entered June 29, 2022

United States Court of Appeals (9th Cir.):

Carl Gordon v. Gavin Newsom, et al. No. 22-55640 (June 30, 2022) Appellant's motion to stay the mandate Denied. Entered: March 27, 2024

United States District Court (Central District of California):

A.W. Clark v. Sherley N. Weber Case No. CV 21-6558-MWF (KSx) Date: October 27, 2021.

A. W. Clark v. Shirley Weber, No. 21-56337 (9th Cir. 2022) In a unanimous (Published Opinion) ruling dated November 29, 2022, in the matter of A. W. Clark v. Shirley Weber before the three-judge panel—Circuit Judges Diarmuid F. O'Scannlain (O'Scannlain), Paul J. Watford (Watford), and Andrew D. Hurwitz (Hurwitz)—they held that the 2021 California gubernatorial recall election is not moot and capable of repetition, a point conceded by John Echeverria, Deputy Attorney General in the Government Law Section of the California Attorney General's Office, during oral arguments on October 20, 2022. The oral argument occurred 505 days before the March 8, 2024, decision in the present case declaring the 2021 California gubernatorial recall election moot.

COURT RULE 14.1(b)(iii)

To err on the side of caution regarding Court Rule 14.1(b)(iii), Gordon has listed a federal court proceeding that may or may not require inclusion. This proceeding stems from the same central issue—unconstitutionally depriving the Plaintiff Gordon of his property (\$4194.94)—and involves the purloining and misappropriation of funds from the FEDERAL TRUST FUND - 17101 of California and the California State Treasury in the U.S. District Court case, where Carl Gordon acts as the Plaintiff/Relator on behalf of the United States of America against California Governor Gavin Newsom (and others) in their individual capacities. The case revolves around the constitutionality of laws (void ab initio) personally approved, signed, and enacted by Governor Newsom, which were deposited by Governor Newsom to be chaptered by the California Secretary State's office without Governor Newsom's constitutional authority. This lack of authority arises from Governor Newsom being the target of the 2021 California gubernatorial recall election, pursuant to Cal. Const. art. II § 17. Additionally, under Cal Const. art. II § 18, Governor Newsom was the direct and sole beneficiary of the void ab initio laws that he enacted, thus violating the U.S. and California Constitutions, as well as other state and federal laws, both civil and criminal, including conflict of interest laws for California elected officials. The court action is as following:

United States District Court (Central District of California):

The United States of America ex rel. Carl Gordon, v. Gavin Newsom, et al. Individual capacities No. 2:23-cv-06727-JLS-MAR 31:3729 False Claims Act (August 16, 2023) The False Claims Act (FCA), 31 U.S.C. §§ 3729 – 3733 Pending March 11, 2024, Minute (In Chambers) Order Discharging Order To Show Cause Re Dismissal For Lack of Prosecution by Judge Josephine L. Staton: On 2/27/2024, the court ordered Plaintiff to Show Cause in writing why the action should not be dismissed for lack of prosecution. Dkt. 40. Plaintiff filed a Response to order to Show Cause on 3/7/24. The court Discharges the OSC.(jp) 3/12/24) (Dkt. Entry No. 45)

Case 2:23-cv-06727-JLS-MAR Document 45 Filed 03/11/24 Page 1 of 1 Page ID #:608

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES – GENERAL

Case No.	LA23CV06727-JLS (MARx)	Date	March 11, 2024
Title	The United States of America, et al., v. Gavin Newsome, et al.		

PRESENT: HONORABLE JOSEPHINE L. STATON, UNITED STATES DISTRICT JUDGE

Charles A. Rojas
Deputy Clerk

Not Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:

ATTORNEYS PRESENT FOR DEFENDANT:

Not Present

Not Present

PROCEEDINGS: (IN CHAMBERS) ORDER DISCHARGING ORDER TO SHOW CAUSE RE DISMISSAL FOR LACK OF PROSECUTION

On February 27, 2024, the court Ordered Plaintiff to Show Cause in writing ("OSC") why the action should not be dismissed for lack of prosecution. Dkt. [40]. Plaintiff filed a Response to Order to Show Cause on March 7, 2024. The court DISCHARGES the OSC.

Initials of Clerk: cr

JURISDICTION

This Court has jurisdiction over this Application under 28 U.S.C. §§ 1254(1) and 1651(a).

APPENDIX

APPENDIX A: Court of appeals remand order to district court (9th Cir. August 17, 2022) Case: 22-55640, 08/17/2022, ID: 12518661, DktEntry: 6, Page 1 of 2

APPENDIX B: The District Court's second amended order, and judgment (9th Cir. August 22, 2022),

APPENDIX C: Appellant's Informal Opening Brief 129 pages, and Ninth Circuit's Order the opening brief submitted and filed. (9th Cir. October 3, 2022)

APPENDIX D: Appellant's Reply Brief 69 pages, and Ninth Circuit's Order the reply brief submitted and filed. (9th Cir. December 23, 2022)

APPENDIX E: Published Opinion by the Ninth Circuit Court of Appeals in A. W. Clark v. Shirley Weber, Case No. 21-56337, 10 Pages (9th Cir. November 29, 2022). Further,

APPENDIX E1: The District Court Case No. 2:21-cv-06558-MWF-KS,: Clark v. Sherley N. Weber. Complaint filed 8/13/21 (Dkt. Entry No. [1]) 6 pages. Page one paragraph 4. Defendant is the California officer who is charged with conducting and administering the Sept. 14, 2021, recall election. Further,

APPENDIX E2 First Amended Complaint 4. Defendant is the California officer who is charged with conducting and administering the Sept. 14, 2021, recall election, and who has refused to enforce the one person, one vote requirement and the majority vote requirement. (Dkt. Entry No. [37]), Filed 9/9/21, 6 Pages,

APPENDIX E3 ORDER Dated 10/27/22, Granting Motion To Dismiss Plaintiff's First Amended Complaint (Dkt. Entry No. [42]), 8 pages.

APPENDIX F: Stipulation for voluntary dismissal without prejudice between Deputy Federal Public Defender Margo Ann Rocconi Attorneys for Plaintiffs... and Supervising Deputy Attorney General Jay M. Goldman Attorneys for Defendants Gavin Newsom... Case 3:06-cv-00219-RS U.S. District Court Northern District of California (August 14, 2020) 5 pages.

APPENDIX G: Filed Memorandum Disposition (Diarmuid F. O'Scannlain, Andrew J. Kleinfeld and Barry G. Silverman) Gordon's petition for initial hearing en banc (Dkt. Entry No. [5]) is Denied. Affirmed. Filed And Entered Judgment. [12867451] (AH) [Entered: 03/08/2024 09:36 AM] (Dkt. Entry No. [37]) 3 pages.

APPENDIX H: Filed order (DIARMUID F. O'SCANNLAIN, ANDREW J. KLEINFELD and BARRY G. SILVERMAN) Appellant's motion to stay the mandate (Docket No. [38]) is DENIED. [12872882] (WL) [Entered: 03/27/2024 03:14 PM] (Dkt. Entry No. [39]) 1 page. Gavin Newsom... Case 3:06-cv-00219-RS U.S. District Court Northern District of California (August 14, 2020) 5 pages.

APPENDIX I: Filed Memorandum Disposition (Diarmuid F. O'Scannlain, Andrew J. Kleinfeld and Barry G. Silverman) Gordon's petition for initial hearing en banc (Dkt. Entry No. [5]) is Denied. Affirmed. Filed And Entered Judgment. [12867451] (AH) [Entered: 03/08/2024 09:36 AM] (Dkt. Entry No. [37]) 3 pages. **APPENDIX H:** Filed order (DIARMUID F. O'SCANNLAIN, ANDREW J. KLEINFELD and BARRY G. SILVERMAN) Appellant's motion to stay the mandate (Docket No. [38]) is DENIED. [12872882] (WL) [Entered: 03/27/2024 03:14 PM] (Dkt. Entry No. [39]) 1 page.

**CORPORATE DISCLOSURE STATEMENT RULE 29.6
STATEMENT**

As required by this Court's Rule 29.6, Applicants hereby state that he is an individual and thus have no parent entities and do not issue stock.

Dated: April 2, 2022



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**TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF THE
SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE
FOR THE NINTH CIRCUIT INTRODUCTION**

Pursuant to United States Supreme Court Rule 22 (Application to Individual Justices) and Rule 23 (Stays: Certiorari to the United States Ninth Circuit Court of Appeals), before entering its mandate in that court under 28 U.S.C. § 2101 and 28 U.S.C. § 1651, it is reviewable by this Court via a writ of certiorari. This Court has the authority to stay (or recall a mandate of the Ninth Circuit Court of Appeals and order if already issued and entered) pending the applicants' filing of a petition for a writ of certiorari and this Court's disposition of that petition, pursuant to 28 U.S.C. §§ 1651(a), 2101(f).

Based on information Applicant Carl Gordon received on April 1, 2024, during a telephone call to the clerk's office of the United States Ninth Circuit Court of Appeals the Court's mandate in the instant case is scheduled to be filed and entered on April 3, 2024. The Applicant's Emergency Application for Stay Pending Petition for Writ of Certiorari, was sent to the U.S. Supreme Court Clerk's Office via Federal Express on April 2, 2024.

However, unforeseen delays such as inclement weather patterns and other events, along with offsite security screening for packages delivered to the Supreme Court, may impact the timely receipt of the Applicant's document before the Ninth Circuit files its mandate. Consequently, in the alternative, Applicant respectfully requests that this Court recall the Ninth Circuit's mandate and stay the proceedings in the Ninth Circuit under Rule 41-1 (recall and stay) for good cause.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Applicant (Gordon) respectfully submits this Emergency Application for Stay Pending Petition for Writ of Certiorari.

This case involves the Due Process Clauses of both the Fifth and Fourteenth Amendments to the United States Constitution and the violation of Gordon's rights therein. It also involves the violation of Article II of the Constitution of the State of California—Voting, Initiative and Referendum, and Recall, specifically Sections 15, 17, and 18, by California Governor Gavin Newsom and others, in the staging, processing, and administrating the 2021 California gubernatorial recall

election, as well as a violation of Sections 1983 of Chapter 42 of the United States Code.

For all of these reasons, Gordon respectfully requests that this Court grant a stay pending certiorari. Additionally, considering that it appears from the evidence that the Ninth Circuit intentionally delayed for 586 days¹ without taking any action on Gordon's request for an initial en banc hearing, spanning nearly 20 months, Gordon respectfully requests an immediate stay pending the resolution of this stay request.

Finally, given the exceptional importance of the issues presented (voting integrity, participatory democracy, voting, and civil rights), despite the Ninth Circuit's contradictory rulings regarding the 2021 California gubernatorial recall election's mootness, this case is not moot. In a unanimous published opinion ruling dated November 29, 2022, in the matter of *A. W. Clark v. Shirley Weber*, before the three-

¹ Gordon's petition for an initial en banc hearing was warranted. In fact, a decision to grant the initial en banc hearing under these circumstances would have been unprecedented. However, the circumstances in this case are unprecedented; the fact that the Ninth Circuit, *inter alia*, **waited 586 days** (from July 31, 2022, (**Docket No. [5]**) to March 8, 2024(**Docket No. [37]**)) to deny Gordon's petition for an initial hearing is unprecedented and violates due process, especially after Gordon requested Filed (ECF) Appellant Carl Gordon Correspondence: Notice of Delay pursuant to Rule 25-2. On 8/26/22 Deputy Clerk: DA stated all pending motions and requests will be addressed by separate order. Two motions pending longer than 4 mos. And a petition for an EN BANC hearing has been pending longer than 6 mo. Date of filing 02/01/2023 (**Docket No. [32]**) *Justice too long delayed is justice denied.* — Dr. Martin Luther King Jr.

judge panel—Circuit Judges Diarmuid F. O’Scannlain (O’Scannlain), Paul J. Watford (Watford), and Andrew D. Hurwitz (Hurwitz)—they held that the 2021 California gubernatorial recall election is not moot² and capable of repetition, a point conceded by John Echeverria, Deputy Attorney General in the Government Law Section of the California Attorney General’s Office, during oral arguments on October 20, 2022. The oral argument occurred 505 days before the March 8, 2024, decision in the present case declaring the 2021 California gubernatorial recall election moot. Accordingly, this Court should consider deeming this application a petition for certiorari and granting review so that this case can be heard and decided during this Term; before the General Election on November 5, 2024.

² To illustrate the judicial wisdom of the three-judge panel in October 2022 and their interpretation of the law, as well as their wise legal decision that the 2021 California gubernatorial recall election was not moot and capable of repetition, Gordon received an email response on Friday, March 29, 2024, at 4:35 p.m. The email, from the Public Records Act Request Staff for Legal Affairs of the California Secretary of State’s Office, stated that a Notice of Intention to Recall Governor Gavin Newsom was filed on February 26, 2024, in their office, thereby corroborating the correctness of the three-judge panel’s decision in November 2022, and rebuking their March 8, 2024, interpretation of federal law for not applying the doctrine of stare decisis to the same legal issue.



SHIRLEY N. WEBER, Ph.D. | SECRETARY OF STATE | STATE OF CALIFORNIA
LEGAL AFFAIRS OFFICE
1500 11th Street | Sacramento, CA 95814 | 916.695.1242 | www.sos.ca.gov

March 29, 2024

Carl Gordon
universityofthehood@gmail.com

RE: California Public Records Act Request of March 25, 2024

Dear Carl Gordon,

Thank you for contacting the California Secretary of State with your request for records pursuant to the California Public Records Act. A copy of your request is attached.

The following records have been located in response to your request:

1. The Notice of Intention to Recall Governor Gavin Newsom dated February 26, 2024 – Seventy-eight pages.
2. Recall Party Preference Statement signed by Governor Gavin Newsom dated February 26, 2024 – One page.
3. Petition Submission letter dated March 5, 2024, Re: Effort to Recall Governor Gavin Newsom – Ten pages.
4. The Secretary of State, Elections Division letter to Anne Dunsmore's Notice of Intention to Recall Petition dated March 14, 2024 – Three pages.
5. Petition Submission letter dated March 15, 2024, Re: Effort to Recall Governor Gavin Newsom – Seven pages.
6. The Secretary of State, Elections Division letter to Anne Dunsmore's letter, dated March 20, 2024 – Two pages.
7. Petition Submission letter dated March 21, 2024, Re: Effort to Recall Governor Gavin Newsom – Five pages.
8. Gavin Newsom's statement to the Notice of Intention to Recall – Two pages.

The California Public Records Act permits the Secretary of State to collect statutory fees for the cost of producing copies of its records, which must be remitted at the time the records are requested. The statutory fees for reproduction of plain copies of the records you have requested are \$1.00 for the first page, and \$0.50 for each additional page, per record. However, we are able to provide the attached electronic copy of each record identified above at no charge.

We hope this information is helpful to you. If you have any questions about this or another matter related to records available at the Secretary of State's Office, please contact us again.

Sincerely,
Legal Affairs Office
Secretary of State

OPINIONS AND ORDERS BELOW

On March 8, 2024, the United States Court of Appeals for the Ninth Circuit FILED MEMORANDUM DISPOSITION (DIARMUID F. O'SCANNLAIN, ANDREW J. KLEINFELD and BARRY G. SILVERMAN) Gordon's petition for initial hearing en banc (Dkt. Entry No. [5]) is DENIED. AFFIRMED. FILED AND ENTERED JUDGMENT. [12867451] (AH) [Entered: 03/08/2024 09:36 AM]

On March 27, 2024, Filed order (DIARMUID F. O'SCANNLAIN, ANDREW J. KLEINFELD and BARRY G. SILVERMAN) Appellant's motion to stay the mandate (Docket No. [38]) is DENIED. [12872882] (WL) [Entered: 03/27/2024 03:14 PM]

STATEMENT OF THE CASE

The only possible way to have this EMERGENCY APPLICATION FOR STAY PENDING PETITION FOR WRIT OF CERTIORARI. submitted in time is to present this portion of the STATEMENT OF THE CASE in an exhibit format to be able to present as much relevant information as possible under the circumstances.

**EMERGENCY APPLICATION FOR STAY PENDING
PETITION FOR WRIT OF CERTIORARI
EXHIBIT A**

Carl Gordon, Plaintiff-Appellant (Gordon)
Governor Gavin Newsom (Newsom)
Attorney General Rob Bonta (Bonta)
Secretary Of State Shirley Weber (Weber)
Chief Counsel Office Steven J. Reyes (Reyes)
The U.S. District Court for the Central District of California (CDCA)
U.S. District Court Judge Fernando M. Olguin (Olguin)
U.S. Magistrate Judge Margo A. Rocconi (Rocconi)
Courtroom Deputy Clerk, Erica Bustos, (Bustos)

In the Supreme Court of the United States

CARL GORDON, APPLICANT,

v.

GAVIN NEWSOM, ET AL., RESPONDENTS

**EMERGENCY APPLICATION FOR STAY PENDING
PETITION FOR WRIT OF CERTIORARI
EXHIBIT A**

TO THE HONORABLE ELENA KAGAN,
Associate Justice of the Supreme Court of the United States and Circuit
Justice for the Ninth Circuit



April 2, 2024

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Pro se litigant Carl Gordon

The impetus for this federal civil rights lawsuit is whether Article II, Sections 13, 14, 17, and 18 of the California Constitution can be usurped by Defendants-Appellees with the use of federal funds (from the Help America Vote Act administered by the U.S. Election Assistance Commission) and unconstitutional laws used that themselves were void *ab initio* as a result of Newsom approving, signing, and illegally filing the document with the SOS (in violation of California Penal Code 115)² without proper constitutional authorization, resulting in his willful violation of the California Constitution.

Additionally, Newsom violated California's common law doctrine against conflicts of interest and the Rules of Professional Conduct for elected officials with his wet signatures enacting the budget and recall appropriation bills into law, which directly impacted his financial position in a positive manner—not only for Newsom but for Bonta and Weber (unelected officeholders) as well. *See* Office of the Attorney General conflicts of interest website at <https://oag.ca.gov/conflict-interest> and the *California Law Governing Conflict of Interest* workbook.

<https://ocde.us/LegalServices/Documents/California-Law-Governing-Conflict-of-Interest-Workbook-2016.pdf> (as of 9/26/22).

constitutional officeholders (unelected) appointees have the power to usurp Cal. Const. art. II Sections 13, 14, 17, and 18 of the California Constitution with their conspiratorially acts of approving, signing, and illegal chaptering (the budget and recall appropriation bills) Assembly Budget Bill No. 128, Chapter 21, and Senate Bill No. 152, Chapter 34, the 187-day, self-serving, conflict-of-interest unconstitutional, void *ab initio* bill that was used as the legal justification for the fraudulent illegal 2021 California gubernatorial recall election.

² CHAPTER 4. Forging, Stealing, Mutilating, and Falsifying Judicial and Public Records and Documents [112 - 117] (Chapter 4 enacted 1872.) 115. (a) Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed, registered, or recorded under any law of this state or of the United States, is guilty of a felony. <https://bit.ly/3BQ8SA9> (as of 9/26/22)

As noted previously, in deference to and showing proper respect for the Court, in telling the plain and simple truth, Gordon does not intend to demean the lower court but only to illustrate and highlight the facts truthfully with language that may sound like an ad hominem attack. It is not, and no disrespect of any individual or the court is intended.

Gordon's mission is to deliver the unassailable facts without being disagreeable. Nonetheless, Gordon is saddened and deeply disappointed that he must make public the serious misconduct of judicial officers of the CDCA—that of abandoning their judicial oath and willfully violating Gordon's constitutional rights, a betrayal by the very individuals who are the sworn guardians of those rights.

JUDGES WITH LIFE TENURE (EMPLOYEES OF THE UNITED STATES GOVERNMENT), APPOINTED BY PRESIDENTS OBAMA AND BIDEN AND CONFIRMED BY THE SENATE, VIOLATED THEIR 28 U.S.C. 453 OATHS

Based on clear and convincing evidence accumulated to date, on June 29, 2022, Olguin, Rocconi, and Bustos, judicial officers of the CDCA, willfully and knowingly conspired to commit fraud upon the court and to violate Gordon's constitutional right to due process under the color of law in violation of Title 18, U.S.C., Section 242.³ By erroneously and in contravention of both federal laws and local rules and practices (civil, criminal, and constitutional)—among them, 28 U.S.C. § 636(b)(1)(C), Fed. R. Civ. P.

³ Section 242 of Title 18 makes it a crime for a person acting under color of any law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States. <https://www.justice.gov/crt/deprivation-rights-under-color-law> (Department of Justice website as of September 26, 2022).

72(b)(3),⁴ and CDCA Local Rules (“ L.R.”) 72-3.5—Olguin, Rocconi, and Bustos⁵ were responsible for filing and entering an order and judgment dismissing the present case with prejudice, resulting in intentional and deliberate plain errors⁶ and the infliction of intentional irreparable harm on Plaintiff-Appellant.

From nearly the inception of this case, Rocconi and Bustos deliberately orchestrated a pattern and practice of violating Gordon’s constitutional rights on nearly every substantive document submitted through the [cacd.uscourts.gov](https://www.cacd.uscourts.gov) (CACD’s) electronic document submission system (EDSS) for people without lawyers,⁷ and in spite of Plaintiff’s complaints, it continued to July 18-20, 2022, with Gordon’s last document filed and entered by court officers; three weeks beyond the district court’s jurisdiction in

⁴28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). When a party timely objects to a magistrate judge’s findings and recommendations concerning a dispositive motion, the district judge *must* make a *de novo* determination of those portions of the magistrate judge’s proposed findings and recommendations to which an objection has been made. CDCA L.R. 72-3.5. This means that Olguin, in accordance with the law and the rules, had to evaluate Rocconi’s factual findings to determine if any are clearly erroneous and to evaluate whether any of her legal conclusions were contrary to law, which involves a *de novo* review of those issues. *Quatama Park Townhomes Owners Ass’n v. RBC Real Est. Fin., Inc.*, 365 F. Supp. 3d 1129, 1133 (D. Or. 2019); *see also id.* at 1141-42. **It appears Olguin intentionally failed to follow the law.**

⁵ **The willfully conduct of Olguin, Rocconi, and Bustos alleged in this action plausibly violates federal criminal law including Title 18 U.S. Code. Section 1512—(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding; (k) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.**

⁶ Under the Federal Rules of Criminal Procedure, Rule 52, “[A] Plain Error that affects substantial rights may be considered even though it was not brought to the court’s attention.” The purpose of the plain error rule is not only to protect the defendant from serious injustices **but also to protect the reputation of the courts and ensure that their decisions follow a fair procedure.**

⁷ <https://www.cacd.uscourts.gov/news/electronic-document-submission-system-people-without-lawyers>

“What happens after I submit a document through EDSS? Court staff will review your document to determine whether it can be filed immediately or whether a judge must first review it to determine if any failure to comply with the local or federal rules is significant enough to prevent it from being filed. Documents submitted using EDSS should be processed within 1-2 business days of receipt.”

“What is the filing date for a document submitted through EDSS? Just like documents received through the U.S. Mail, documents received through EDSS will not be considered filed until court staff have uploaded them into CM/ECF. However, the date of EDSS submission will be considered the filing date for any documents received through EDSS and later filed into CM/ECF.” <https://apps.cacd.uscourts.gov/edss> (as of September 26, 2022).

the action. See (Dkt. No(s)).18, 20, 26, 36, 38, and 44.

The court officers' violations continued with Gordon's June 28, 2022, filing of his objections to the magistrate judge's report and recommendation ("R&R")⁸, the last timely and legally filed documents in compliance with the Federal Rule of Civil Procedure Rule 72, the district court's EDSS written instructions posted on its website, and the notice of filing of the R&R dated May 2, 2022, Dkt. No. 32. A true and correct copy of the notice is attached hereto as **Exhibit A**.

On June 28, 2022, Gordon filed his last documents—titled "Plaintiff's Response and Request That the Court Overrule Defendant's Response to Plaintiff's Objections"—through the EDSS. True and correct copies of the documents are attached hereto as **Exhibit B**. On June 28, 2022, at 10:24:08 p.m., Gordon received a confirmation email from the CACD'S Civic Intake section. A true and correct copy of the email is attached hereto as **Exhibit C**.

On June 29, 2022, Gordon sent an email to Bustos requesting an estimate of when she would file and enter the documents on the docket. A true and correct copy of Gordon's email to Bustos, dated June 29, 2022, is attached hereto as **Exhibit D**.

⁸ You are hereby notified that the Magistrate Judge's Report and Recommendation has been filed. Any party having Objections to the Report and Recommendation and/or order shall, not later than June 1, 2022, file and serve a written statement of Objections with points and authorities in support thereof before the U.S. Magistrate Judge. A party may respond to another party's Objections within 14 days after being served with a copy of the Objections. ECF Docket No. (Dkt. 32). See a true and correct copy attached hereto as **Exhibit A**.

NOTICE OF FILING REPORT AND RECOMMENDATION by Magistrate Judge Margo A. Rocconi. Objections to R&R due by 6/1/2022. (es) (Entered: 05/02/2022)

EXHIBIT A

Case 2:21-cv-07270-FMO-MAR Document 32 Filed 05/02/22 Page 1 of 1 Page ID #:999

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Carl Gordon,

PLAINTIFF(s) / PETITIONER(s)
v.

Gavin Newsom et al.,

DEFENDANT(s) / RESPONDENT(s)

CASE NUMBER:

2:21-cv-07270-FMO(MAR)

**NOTICE OF FILING OF
MAGISTRATE JUDGE'S REPORT
AND RECOMMENDATION**

TO: All Parties of Record

You are hereby notified that the Magistrate Judge's Report and Recommendation has been filed on May 2, 2022.

Any party having Objections to the Report and Recommendation and/or order shall, not later than June 1, 2022, file and serve a written statement of Objections with points and authorities in support thereof before the Honorable Margo A. Rocconi, U.S. Magistrate Judge. A party may respond to another party's Objections within 14 days after being served with a copy of the Objections.

Failure to object within the time limit specified shall be deemed a consent to any proposed findings of fact. Upon receipt of Objections and any Response thereto, or upon expiration of the time for filing Objections or a Response, the case will be submitted to the District Judge for disposition. Following entry of Judgment and/or Order, all motions or other matters in the case will be considered and determined by the District Judge.

The Report and Recommendation of a Magistrate Judge is not a Final Appealable Order. A Notice of Appeal pursuant to Federal Rules of Appellate Procedure 4(a)(1) should not be filed until entry of a Judgment and/or Order by the District Judge.

CLERK, UNITED STATES DISTRICT COURT

By: 

Dated: 5/02/22

On July 7, 2022, Gordon requested and received an email from the CACD stating that an email was sent to Rocconi's chambers with the notification that Gordon's documents were received on June 28, 2022. A true and correct copy of the email, dated July 7, 2022, from the CACD Helpdesk is attached hereto as **Exhibit E**.

On August 25, 2022, Gordon, requested and received a follow-up confirmation email, corroborating evidence that impeaches Olguin's false narrative—"*However, the filing was not processed until the Court had already considered and issued the judgment dismissing the action.*"—Dkt. 48., from ecf-helpdesk CACD with the following message:

Carl, The EDSS submission was forwarded to Judge Rocconi's chambers on 6/29/2022 at 9:22 am. Thanks

A true and correct copy of the August 25, 2022 email is attached hereto as **Exhibit F**.

On August 22, 2022, in his second amended order accepting the findings and recommendation of the U.S. magistrate judge (Dkt. 48), Olguin admits to having the documents on June 29, but they were not filed and entered (**processed**) even though he already had crafted his order and judgment that he subsequently filed and entered on July 18-20, 2022 (Dkts. 43 and 44) under the ruse of "*Notice of Document Discrepancies.*"

However, based on the automated email messages generated by the case management/electronic case files (CM/ECF) system, the order accepting the findings of the U.S. magistrate judge was not filed and entered by the court until **1:20 p.m.** on June 29, 2022, as evidenced by the notice of electronic filing emailed to Natasha Saggur Sheth

(“Sheth”) at Natasha.Sheth@doj.ca.gov and Melissa Mendiola (“Mendiola”), legal secretary at the California Department of Justice (“DOJ”), at melissa.mendiola@doj.ca.gov and sent to Gordon by first-class U.S. mail postmarked June 30, 2022. A true and correct copy is attached as **Exhibit G**.

Further, as confirmed by another automated email generated by the CM/ECF system, the judgment by Olguin was not filed and entered until **1:37 p.m.** on June 29, 2022. This is evidenced by the notice of electronic filing emailed to Sheth and Mendiola and sent to Gordon by first-class U.S. mail. A true and correct copy of the email message is attached hereto as **Exhibit H**.

The above CM/ECF system’s documented chronology of events unquestionably impeaches the integrity, validity, and truth of Olguin’s written description of events proffered in his second amended order and judgment (“third bite of the apple”) filed August 22, 2022, in response to the Ninth Circuit’s August 17, 2022 limited remand and order to vacate his July 18, 2022 amended order and judgment (“the second bite of the apple”) and to reenter an order and judgment that considered Gordon’s June 28, 2022 objections to the R&R.

It appears that the unimpeachable evidence presented here is proof of Olguin’s intentional judicial misconduct—conspiracy to suppress Gordon’s timely filed June 28, 2022 objections to Rocconi’s R&R in violation of federal law and the Code of Conduct for United States Judges. See *Title 18 United States Code. Section 1512— (A) withhold testimony, or withhold a record, document, or other object, from an official proceeding*

Clearly, in the face of Title 18, U.S. Code § 1512, the “third bite of the apple” was provided by the Ninth Circuit Court of Appeals as an opportunity for Olguin to do right, come clean, and bring an end to a 49-day brazen attempt to make a mockery of the judicial system. See *Slater v. U.S. Steel Corp.*, No. 12 15548 (11th Cir. June 12, 2018).

But instead, Olguin proffered the following statements in his second amended order of August 22, 2022, which must be deconstructed, analyzed, and summarized individually to reveal how, and possibly why, the conspiracy was orchestrated by Olguin, Rocconi, and Bustos in the service of Newsom, Bonta, Weber, and Reyes.

Olguin and Rocconi infringed on the rights of not only Gordon but also those of 55 similarly situated gubernatorial replacement candidates who were defrauded. Further, Olguin and Rocconi disregarded the rights of 22 million California registered voters to engage in participatory democracy and to recall bad actors, as guaranteed by Cal. Const. art. II §13, §14, and §17, which was fortified by Proposition 14 in 1976 by the voters and unanimously passed by the California legislature. A true and correct copy of Proposition 14 is attached as **Exhibit I**, along with a true and correct copy of Cal. Const. art. II §13, §14, and §17 attached hereto as **Exhibit J**. And true and correct copies of the certified list of defrauded gubernatorial replacement candidates and the fees paid by them to the SOS for the 2021 recall election is attached hereto as **Exhibit K**.

ASSESSING THE VERACITY OF OLGUIN’S STATEMENTS IN HIS SECOND AMENDED ORDER AND JUDGMENT DATED AUGUST 22, 2022, IN RESPONSE TO THE NINTH CIRCUIT’S REMAND ORDER OF AUGUST 17, 2022

8/22/22 Statement 1. “On June 29, 2022, the court entered judgment dismissing the above-captioned action.”

Fact Check Statement 1. This statement is factual with obfuscations in an effort to mislead the Court as to the whole truth. Olguin filed and entered the order and judgment at **1:20 p.m.** and at **1:37 p.m.**, respectively. **See Exhibits G and H.**

Olguin’s 8/22/22 Statement 2. “On June 28, 2022, Plaintiff had filed a Response and Request that the Court Overrule Defendants’ Response to Plaintiff’s Objections to the Report and Recommendation of the Magistrate Due to Late Filing of the Response by Defendants, which the court construed as further Objections to the Magistrate Judge’s Report and Recommendation. Dkt. 44.”

Fact Check Statement 2. It is factual that the court correctly viewed Gordon’s June 28, 2022 objections in their totality as objections to Rocconi’s R&R.

However, the court disregarded the Gordon objections in their totality, despite the fact that Gordon called out and provided clear and convincing evidence of fraud upon the court by CDCA personnel, perpetrated by backdating defendants’ Response to Plaintiff’s Objections to Report and Recommendation of Magistrate (Dkt. 38) from the actual filing date—June 16,—to the fraudulent date of June 15, which appears to be in complicity with Defendants’ attorneys. *This unlawful conduct is not inconsequential*; it’s clear physical evidence of fraud on the court—an attack on the “judicial machinery” of the court itself.

How could Mendiola certify the certificate of service on June 16 if it already had been filed on June 15? A true and correct copy of the certificate of service—signed and dated June 16, 2022, under penalty of perjury by Mendiola, legal secretary at the California DOJ—was filed with the response’s objections and is attached hereto as **Exhibit L**. A point of fact: Gordon never was served via email as the June 16, 2022 certificate of service purports, which raises suspicions that the California DOJ personnel knew this, and it appears that Paul Stein, as the supervising deputy attorney general turned a blind eye. See (Dkt. 38) and specifically Exhibit L.

Olguin’s 8/22/22 Statement 3. “However, the filing was not processed until the Court had already considered and issued the judgment dismissing the action.”

Fact Check Statement 3. This is an unwitting and surprisingly true statement by Olguin, despite the fact that Olguin, Rocconi, and Bustos were in possession of Gordon’s June 28, 2022 objections **at 9:22 on the morning of June 29, 2022—four hours** before Olguin issued his order and judgment dismissing the action with prejudice.

Here, it appears that Olguin’s judicial misconduct is proof of plain error, a mockery of the judicial system, and a violation of Gordon’s civil rights, and it also appears that Olguin committed acts that corruptly impeded the due administration of justice.

Notwithstanding the Ninth Circuit’s extraordinary remand opportunity extended to Olguin to mitigate his unlawful acts and the irreparable harm he inflicted upon Gordon in his second amended order and judgment on August 22, 2022, Olguin doubled down and

recommitted the offense of impeding the due administration of justice by knowingly and willfully making false and misleading statements (18 USC § 1001) to the Ninth Circuit Court of Appeals. Also see *United States v. Aguilar*, 515 U.S. 593 (1995).

Additionally, what's extraordinary about Olguin's Statement 3 is that he unequivocally and unwittingly confessed and confirms that he deliberately and intentionally, under the color of law under Title 18, U.S.C., Section 242, violated Gordon's constitutional rights to due process when he purposely refused to make a *de novo* determination of Gordon objected to Rocconi's R&R. Thus, it appears that Olguin willfully and deliberately violated 28 U.S.C. § 636(b)(1)(C), Fed. R. Civ. P. 72(b)(3), and L.R. 72-3.5, and 18 U.S.C. § 1512(c)(1) & (2), resulting in "conduct prejudicial to the effective and expeditious administration of the business of the courts," thus bringing shame and disrepute on and diminishing public confidence in the CDCA.⁹

See **Exhibit F**. It is unimpeachable evidence automatically generated by the CDCA itself confirming that Olguin, Rocconi, and Bustos had Gordon's June 28, 2022

⁹ ELENA KAGAN, ASSOCIATE JUSTICE U.S. SUPREME COURT, ON PUBLIC CONFIDENCE IN THE SUPREME COURT AND THE JUDICIARY IN GENERAL, JULY 21, 2022 | PART OF U.S. COURT OF APPEALS FOR NINTH CIRCUIT HOLDS A CONFERENCE

"What can the court do to basically regain or increase public confidence in the Supreme Court? What, specifically?" Justice Kagan: "A super hard question, of course. But overall, the way the court retains legitimacy and fosters public confidence is by acting like a court. By doing the kinds of things that do not seem political or partisan. By not behaving as though we are just people with individual political, policy, or social preferences that we are making everybody live with. But instead, we are acting like a court, doing something that is recognizably law-abiding. That is where we gain our legitimacy. Not because we have better opinions than anybody else."

[Justice Kagan's sage is applicable to the entire judiciary. Apparently, Olguin did not heed the clarion call.]

objections in their possession for **four hours** before Olguin rendered his preordained decision and simply deep-sixed Gordon's objections as if they didn't exist. However, Olguin's unwitting admission confirms that they did exist and that he did in fact violate U.S. Code Title 18. Crimes and Criminal Procedure § 1512 (B) prevent the production of a record, document, or other object, in an official proceeding. And the omnibus clause, or "catch-all provision" of 18 U.S.C. § 1503 obstruction of justice¹⁰

What existed in Gordon's June 28, 2022 objections that so disproved the credibility of Rocconi's impartiality and fairness that it caused Olguin to illegally suppress the objections (evidence) while he crafted his ruling—all while violating Gordon's rights to due process—and ultimately suppress Gordon's objections and make them irrelevant and nonconsequential altogether, even if they were docketed after the case was closed on June 29, 2022? Why would Olguin, a United States district judge, forsake his judicial oath (28 U.S. Code § 453, Oaths of justices and judges) for Rocconi and Newsom?

On June 29, 2022, Plaintiff sent Bustos an email stating,

"Dear Ms. Bustos, I filed the following documents below on June 28, 2022, please let me know when they will be filed and appear on the docket? Thank you. Carl Gordon"

A true and correct copy of the email, June 29, 2022, is attached hereto as **Exhibit M**.

On June 30, 2022, Gordon filed the original notice of appeal (See Dkt. 41).

¹⁰ 1724. PROTECTION OF GOVERNMENT PROCESSES -- OMNIBUS CLAUSE -- 18 U.S.C. 1503

The omnibus clause, or "catch-all provision" of 18 U.S.C. § 1503, provides: Whoever . . . corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice, shall be (guilty of an offense). See *United States v. Aguilar*, 515 U.S. 593 (1995) *United States v. Aguilar*, ___ U.S. ___, 115 S. Ct. 2357 (1995) <https://bit.ly/3LZTtSN> as of 09/26/22

06/30/2022	41	NOTICE OF to the 9th CCA filed by plaintiff ... (Entered: 06/30/2022)
07/01/2022	42	NOTIFICATION from Ninth Circuit Court of ... (Entered: 07/05/2022)

On July 1, the Ninth Circuit Court of Appeals filed its notification.¹¹

On July 6, 2022, Gordon sent Bustos an email stating,

“Dear Ms. Bustos, I filed the following documents below on June 28, 2022, a week ago, would you please tell me (when they will be filed) and why it has not been filed as of the dated June 28, 2022, and entered on the official docket? Thank you for your assistance in this matter.”

A true copy of Gordon’s July 6, 2022, email, is attached hereto as **Exhibit N**.

On July 7, 2022, Bustos sent Gordon an email stating, *“Mr. Gordon, your case is closed.”* It appears that Bustos’ email is prima facie evidence that Olguin and Rocconi had no intentions of filing any corrective ruling for judicial lucidity.

Olguin and Rocconi had hurriedly closed the case on June 29, 2022. Their actions of filing the *notice of document discrepancies* on July 18, 2022, and entering it on July 19 (Dkt. 43) essentially corrupted the judicial process (again) after the fact with Gordon’s June 28, 2022 objections by entering it on July 20, 2022 (Dkt. 44), 22 days

¹¹ Based on the fact that each filing and entry on the CDCA Civil Docket for Case #: 2:21-cv-07270-FMO-MAR is registered and recorded by the CM/ECF system. On August 29, 2022, Gordon sent an email to the CM/ECF Helpdesk to determine when Olguin was notified of entries 41 and 42 to the docket. This is critical because, on August 22, 2022, Olguin implies he was unaware of the Ninth Circuit’s jurisdiction in the case on July 18, 2022. Update: On September 8, 2022, Gordon received the following receipts from CM/ECF - California Central District, “The following transaction (Gordon’s Notice of Appeal Dkt.41) was entered on **6/30/2022 at 3:18 PM PDT and filed on 6/30/2022.**” Further, on September 8, 2022, Gordon received from CM/ECF that the 9th Circuit filed its Notification Dkt.42 and that the transaction was entered on **7/5/2022 at 5:27 PM PDT and filed on 7/1/2022.** It appears this unassailable evidence from: caed_ecfmail@caed.uscourts.gov to Olguin (crd_olguin@caed.uscourts.gov), and Rocconi (crd_rocconi@caed.uscourts.gov) proves the intentional misrepresentation of Olguin’s August 22, 2022, statements. True and correct copies of the September 8, 2022 receipts from CM/ECF are attached hereto as **Exhibits O and P**.

after first having it in their possession in Rocconi’s chambers. Their actions were an elaborate ruse to deceive the Ninth Circuit (especially having full knowledge that the case was out of their jurisdiction on June 30, 2022; see Exhibits O and P) and to lay the predicate for plausible deniability for Olguin in the event of any repercussions or pushback, which eventually came in the form of the Ninth Circuit’s remand on August 17, 2022, in response to Gordon’s July 20, 2022 motion to strike Olguin’s erroneous, filings. (Docket Entry No. [3]). A true and correct copy of Bustos’ July 7 email is attached hereto as **Exhibit Q**.

Olguin’s 8/22/22 Statement 4. “The Court entered an Amended Judgment and Order Accepting on July 18, 2022, to make clear that the Court had considered Plaintiff’s June 28, 2022 filing. Dkts. 43, 45.”

Fact Check Statement 4. The fact that the court entered an amended judgment and order on Monday, July 18, 2022, is true. With deference to the Court, there’s more to the misleading cover story than what Olguin revealed in Statement 4.

Simple questions: With all due respect, if the case was closed on June 29, 2022, by Olguin and there was no motion for reconsideration filed by Plaintiff within 10 days of the Court’s judgment—as governed by Rule 59(e) of the Fed. R. Civ. P., “Motion for ‘reconsideration’ in the Fed. R. Civ. P.” *Bass v. United States Dep’t of Agriculture*, 211 F.3d 959, 962 (5th Cir. 2000)—20 days after Olguin’s dispositive ruling, what was his rationale for filing Dkts. 43, 44, 45, and 46, cited below, on July 18, 2022, allegedly to make clear that he had considered Plaintiff’s June 28, 2022 objections? Who was his

audience? Who needed to know that, and for what purpose, nearly three weeks after Olguin dismissed the case with prejudice? Especially when he had full knowledge that the case was out of his jurisdiction on June 30, 2022, as evidenced by exhibits O, P, and Q and Bustos' July 7, 2022 email. What was Olguin's reason for **not** seeking leave under Fed. R. Civ. P. Rule 60(a) to achieve the supposed clarity, other than to perfect and proffer the ruse and to cover up his egregious judicial misconduct and unlawful behavior?

07/18/2022	43	NOTICE OF DOCUMENT DISCREPANCIES... (Entered: 07/19/2022)
06/28/2022	44	PLAINTIFF'S RESPONSE AND REQUEST... (Entered: 07/20/2022)
07/18/2022	45	AMENDED ORDER ACCEPTING FINDINGS... (Entered: 07/20/2022)
07/18/2022	46	AMENDED JUDGMENT 40 by Olguin... (Entered: 07/20/2022)

What motivated Olguin to do what he did on Monday, July 18, 2022?

We will never know for sure, but logic and reason tell us perhaps Olguin was motivated by anxiety and concern about exposure of what he had and hadn't done on (June 29, 2022) as a federal judge. *Mens rea*, perhaps? Certainly, it's something to consider; the false narrative continues. When given the opportunity for the third bite of the apple by the Ninth Circuit's remand and order, Olguin provided the misleading statements (unintentional self-incrimination, statements contradictory to the facts and the evidence) in his August 22, 2022 reentered amended order and judgment and his corresponding actions that we are analyzing for truthfulness and validity here in this opening brief.

Therefore, more likely than not, it was the following. The flurry of preparing and

filing Dkts. 43, 44, 45, and 46 on Monday, July 18, and July 19, 2022, was to create a sense of judicial diligence. It took place following the Friday, night, 8:29 p.m., July 15, 2022, filing of Gordon's objections to the R&R on the Ninth Circuit Court of Appeals' docket. The filing apparently signaled to Olguin, Rocconi, and Bustos the impending legal jeopardy that they were facing for their judicial misconduct of withholding the objections (documents) from the judicial proceedings and their manipulation and falsification of the court record. Monday, morning, July 18, 2022, was the first opportunity to implement damage control.

However, it appears to have been a calculated cover-up of egregious judicial misconduct and an effort to further illegally manipulate the court docket to comport with his preordained June 29, 2022 decision, which is evidenced by his identical decision on August 22, 2022, even down to his unfounded phantom assertion that he had reviewed Gordon's first amended complaint *de novo*. However, there was never a first amended complaint filed in the action.

The timing of Olguin's apparent epiphany of wanting to make clear that he had considered Plaintiff's June 28, 2022 objections nearly three weeks after the fact (without any request within 10 days from Plaintiff) and his documented awareness of Gordon's filed notice of appeal with the Ninth Circuit on June 30, 2022, were not coincidental. Again, peruse exhibits O and P.

No, it appears that Olguin's actions were motivated by the Friday, July 15, 2022 filing of Gordon's Appellant's Emergency Motion to Expedite and his Appellant's

Statement of Issues to Be Raised on Appeal (“statement”), with the June 28, 2022 objections to Rocconi’s R&R attached as an exhibit for review by the Ninth Circuit. Each document illuminated possible inculpatory evidence of judicial misconduct.

As a result of Gordon’s objections to Rocconi’s R&R being filed and entered on the Ninth Circuit’s docket on Friday, July 15, 2022, it provided a certain amount of assurance that it would be reviewed *de novo*. This was despite the fact that it was deliberately withheld from the judicial proceedings, and coupled with Olguin’s complete failure to conduct the statutorily mandated *de novo* review in violation of 18 U.S.C. § 1512, it was devastatingly fatal for the case and irreparably harmful.

Accordingly, inter alia, Olguin’s illegal actions prevented the inclusion and official documentation of Gordon’s legally and timely filed objections to the magistrate judge’s R&R on the official clerk-stamped certified copy of the CDCA Civil Docket entries—a requirement to be filed with the Ninth Circuit Court of Appeals pursuant to L.R. 3(d). (Docket Entry No. [2])

Olguin’s illegal tampering resulted in a false docket being filed with the Ninth Circuit. However, if there’s a silver lining to the (court induced) false certified copy of the court docket being filed, it is that it officially corroborates the willful and intentional withholding of Gordon’s objection to the R&R from the official judicial proceeding by Judge Olguin himself. This is in spite of Olguin’s subsequent attempted cover-up and the Ninth Circuit’s cautionary, unprecedented third try to get it right—the extraordinary opportunity provided to Olguin, Rocconi, and Bustos in the form of the purposely

limited remand, a brightly colored judicial life buoy, on August 17, 2022.

Gordon's filing the required documents with the Ninth Circuit on Friday, July 15, 2022, exposed and foiled the illegal scheme of Olguin, Rocconi, and Bustos to withhold Gordon's June 28, 2022 objections from the court procedural records. It appears that Gordon's filing of documents created a sense of anxiety simply because they were filed with the Ninth Circuit for review. As a consequence, beyond circumstantial evidence reveals that Olguin chose **not** to follow the law to seek leave of the Ninth Circuit pursuant to Rule 60(a) to amend his June 29, 2022 dispositive order and judgment. In the alternative, on Monday, July 18-20, 2022, Olguin, Rocconi, and Bustos implemented the misdirected *notice of document discrepancies* subterfuge canard (Dkts. 43, 44, and 45). It appears Olguin sensed that he somehow needed to get Gordon's objections on the record after allegedly originally conspiring with Rocconi and Bustos to withhold the document and record from the official court proceeding. And perhaps this was to conceal the evidence of misconduct and to mitigate violations of federal law, obstruction of justice in a federal judicial proceeding.

As noted earlier, on July 15, 2022, at 8:29 p.m., Gordon responded to the Ninth Circuit's order of July 1, 2022 (Docket Entry No. [1]) and filed his Appellant's Statement of Issues to Be Raised on Appeal, (Docket Entry No. [2]), Dkt. Entry: 2-1, page 1 of 32), and also filed an Emergency Motion to Expedite on the same date and time (Dkts. Entry Nos. 2-5, page 2 of 17). Each of these documents appears to have been the catalyst for Olguin's willful misrepresentation and ruse. (Please see Docket Entry No.

[2], 417 pages in total). The content perhaps offers a glimpse into Olguin’s anxiety about being exposed and his defensive actions on July 18, 2022, and July 19, 2022, after Gordon filed on July 15, 2022, the illuminating challenging documents about the clearly prejudicial and unlawful court proceedings. Additionally, please peruse the short excerpts from Appellant’s statement of issues and the motion to expedite the proceedings that appears to have formed the basis for Olguin’s extraordinary judicial ruse, cover-up, and after-the-fact self-incriminating damage control documentation with unimpeachable inculpatory evidence of guilt¹².

¹² Olguin and Rocconi both are accomplished legal professionals in their own right who have made outstanding contributions to the law and to the legal community, as evidenced by their nomination and appointment by President Barack Obama and President Joe Biden, respectively, to the federal bench in 2012 and March 2021, respectively. It is interesting that Biden was Obama’s vice president when Olguin was nominated and appointed and that Kamala Harris—former U.S. senator and attorney general from California—was Biden’s vice president when Rocconi was sworn in on March 19, 2021, only six months or so before meeting the challenges of the instant case. On September 8, 2021, Harris stumped for Newsom, and on September 9, 2021, Biden stumped for Newsom against the Republican-backed 2021 gubernatorial recall election. Nonetheless, in Olguin’s and Rocconi’s representation as judges in the United States District Court, Central District of California, they failed in their mission of impartiality and in the fair application of the rule of law in the instant case.

Further, Rocconi is a longtime ally in the fight to abolish capital punishment in California. <https://bit.ly/3zgHyeB> January 30, 2002. <https://lat.ms/3aFBO4o>. “Anderson strained his head several times to look toward the 40 witnesses. One of his attorneys, Margo Rocconi, mouthed the words ‘I love you’ to him several times. His eyes blinking, his right foot twitching, he mouthed the words ‘thank you.’”

The California-Lethal-Injection-Settlement-Agreement-2020-07-29 Case 3:06-cv-00219-RS Document 755, filed 07/24/20.* On March 13, 2019, Newsom issued Executive Order N-09-19, which mandated a moratorium on the death penalty in California in the form of a reprieve for all people sentenced to death in California, the repeal of California’s lethal injection protocol, and the closure of the death chambers at San Quentin State Prison. As a result, executions cannot be carried out in California while the executive order remains in effect. Case 3:06-cv- 00219-RS Document 755, filed 07/24/20, page 2 of 14. Stipulation Regarding Procedural Reinstatement of Fifth Amended Complaint; Order July 16, 2020. Governor Gavin Newsom Orders a Halt to the Death Penalty in California. https://www.youtube.com/watch?v=u_kAup99U0o

*[Dated: July 16, 2020 by: /s/ Margo Ann Rocconi Margo Ann Rocconi DEPUTY FEDERAL PUBLIC DEFENDER Attorneys for Plaintiffs Tracy Cain, Raynard Cummings, Robert Fairbank, William Payton, Scott Pinholster, and John Visciotti]

Olguin’s 8/22/22 Statement 5. “However, by that time, Plaintiff had already filed a Notice of Appeal. Dkt. 41. Accordingly, on August 17, 2022, the Ninth Circuit issued a mandate indicating that this Court did not have jurisdiction to enter the Amended Judgment and Order. Dkt. 47.”

Fact Check Statement 5. In Statement 5, when Olguin stated, “[B]y that time, Plaintiff had already filed a Notice of Appeal. Dkt. 41,” he is implying that on July 18 and July 19, 2022, when he filed Dkts. 43, 44, 45, and 46, he was unaware that Plaintiff had already filed a notice of appeal on June 30, 2022, and by inference, he was unaware of his loss of jurisdiction in the case.

Statement 5 on its face is a transparent equivocation to conceal the fact that between June 30, 2022, and July 6, 2022, Olguin, Rocconi, and Bustos were aware that Plaintiff had filed a notice of appeal and further, that on July 1, 2022, the Ninth Circuit Court of Appeals had filed its notification and assigned a case number and briefing schedule, Dkt. 42, which was entered July 5, 2022, two days before Bustos sent Gordon her email dated July 7, 2022, stating, “*Mr. Gordon, your case is closed.*”

Appellant’s Statement of Issues to be Raised on Appeal: 8. Whether the very close relationship between the Magistrate Judge and the governor violated the Code of Conduct for United States Judges Canon 3., 2. Whether noncompliance by the District Court with 28 U.S.C. § 636 violated Gordon’s rights. 3. Whether the District Court purportedly reviewed Gordon’s First Amended Complaint, in de novo review of those portions of the Report to which Plaintiff has objected without reviewing Plaintiff’s objection to Response to Plaintiff’s Objections to Report and Recommendation of Magistrate, filed untimely in violation of Rule 72 on June 16, 2022, and backdated on the court docket to reflect June 15, 2022, as filing date by someone mysteriously at the court. 4. Whether the District Court violated Gordon’s rights under Rule 72. 5. Whether the District Court, having full knowledge that the Election Assistance Commission (EAC) Office of Inspector General had referred this case to DOJ and FBI for investigation due to the incriminating evidence of wrongdoing by the defendants, had a duty to act. 6. Whether the District Court violated Gordon’s rights under Fed.R.Civ.P. 15(d) by not granting Gordon leave to amend the complaint.

Moreover, evidence reveals that Olguin knew that the case was out of his jurisdiction weeks before he executed the canard that was the filing of Dkts. 43, 44, 45, and 46, intended to cover up fraud on the court and judicial misconduct to deceive the Ninth Circuit, making a mockery of the Court. See *Slater v. U.S. Steel Corp.*, (11th Cir.)

Again, when Olguin stated, “... on August 17, 2022, the Ninth Circuit issued a mandate indicating that this Court did not have jurisdiction to enter the Amended Judgment and Order. Dkt. 47,” he was deliberately being evasive to obscure the fact that he knew the case was out of his jurisdiction 20 days earlier than July 18, 2022, when he deliberately violated Fed. R. Civ. P. Rule 60(a). Furthermore, Olguin was also aware on July 20, 2022, that Gordon had filed a motion requesting that the Ninth Circuit strike any attempts by him to make any amendments or correct any mistake to the docket, judgment, order, or other part of the record, pursuant to Rule 60(a), which states in part:

The court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court’s leave to do so.

Olguin’s 8/22/22 Statement 6. “The Ninth Circuit remanded the case to this Court for the limited purpose of vacating the Amended Judgment and Order and reentering a judgment and order considering Plaintiff’s June 28, 2022 filing. Id.

Accordingly, the Amended Order and Judgment, Dkts. 45–46, are hereby VACATED. Pursuant to 28 U.S.C. § 636, the Court has, again, reviewed the **First Amended Complaint**, the relevant records on file, and the Report and Recommendation of the United States Magistrate Judge.

Having conducted a de novo review of plaintiff’s Objections to the Report and Recommendation, the Court finds that they warrant no changes to the Magistrate Judge’s recommendation and therefore accepts the findings and recommendation of the Magistrate Judge. IT IS THEREFORE ORDERED that Judgment be entered dismissing this action with prejudice. Dated: August 22, 2022 HONORABLE FERNANDO M. OLGUIN United States District Judge /s/”

Fact Check Statement 6. The Ninth Circuit remanded the case to the district court for the limited purpose of vacating the amended judgment and order and reentering a judgment and order considering Plaintiff's June 28, 2022 filing because Olguin had deliberately violated Fed. R. Civ. P. Rule 60(a).

Moreover, on July 20, 2022, Gordon filed a motion (Docket Entry No. [3]) with the Ninth Circuit to strike all of the district court's July 18-20, 2022 entries (Dkts. 43, 44, 45, and 46), as it was more than apparent that on their faces they were in violation of the law and the rules, causing the Ninth Circuit to take corrective actions, as it did on August 17, 2022, as noted above.

From Olguin's Statement 6, "Court has, again, reviewed the First Amended Complaint, the relevant records on file, and the Report and Recommendation of the United States Magistrate Judge," it appears that there is an intentional misrepresentation on his part—that of his repeated false narrative that he reviewed the *first amended complaint* when in fact he was acutely aware, as shown by his own admission in Statement 6, that he reviewed the relevant records on file showing that Gordon was never given the opportunity to file an amended complaint. As noted, an amended complaint is a written revision of the original complaint filed. Gordon was never granted leave to amend the original complaint.

CONCLUSION SECTION 2. PART I

Gordon, Plaintiff-Appellant, is but the lone whistleblower who is attempting to sound the alarm of how the 110-year-old legacy of participatory democracy enshrined in the California Constitution since 1911 was illegally and stealthily usurped from the 22 million California registered voters with the illegal use of federal funds by a conspiracy of California constitutional officeholders (2 unelected, but appointed by Newsom) orchestrated by Newsom, the governor of California, and his 2 co-defendants in this present federal action.

Regrettably, it appears to be undisputable evidence that the tentacles of the governor have reached into the federal judiciary at the United States CDCA and far into the California Department of Justice, with circumstantial evidence that appears to possibly involve Paul Stein, supervising deputy attorney general #184956. See (Dkt. 38)

Furthermore, the only thing that will stem the metastasizing and prevent a sustained devastating breach in our democracy, worse in some ways than the January 6, 2021 attack on the U.S. Capitol, frankly and without hyperbole, is the United States Court of Appeals for the Ninth Circuit.

Sadly, it appears there is evidence that Defendants-Appellees were aided, abetted, and facilitated in the present case by judicial officers Olguin, Rocconi, and Bustos and possibly others in an effort to cover up the breach of trust of 22 million California registered voters, usurping their California constitutional rights to participatory democracy with the illegal use of federal funds.

EXHIBIT B

On June 28, 2022, Gordon filed his last documents—titled “Plaintiff’s Response and Request That the Court Overrule Defendant’s Response to Plaintiff’s Objections”—through the EDSS.

On July 20, 2022, the court unlawfully entered Gordon's documents with a June 28, 2022, filing date, and as docket number 44, as noted below.



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On July 20, 2022, the court unlawfully entered Gordon's documents with a June 28, 2022, filing date, and as docket number 44, as noted above.

PLAINTIFF IN PRO PER CARL GORDON

**UNITED STATES DISTRICT COURT CENTRAL
DISTRICT OF CALIFORNIA WESTERN DIVISION**

CARL GORDON,
Plaintiff,

v.

Gavin Newsom, in his official capacity as the Governor of the State of California; Rob Bonta, in his official capacity as Attorney General of the State of California; Shirley N. Weber, in her official capacity as Secretary of State of the State of California; Steven J. Reyes, in his official capacity as Chief Counsel Office of the Secretary of State of the State of California; and DOES 1 through 100,

Defendants

Case No.:
2:21-cv-07270-FMO-MAR

**PLAINTIFF'S RESPONSE AND
REQUEST THAT THE COURT
OVERRULE DEFENDANT'S
RESPONSE TO PLAINTIFF'S
OBJECTIONS TO THE REPORT AND
RECOMMENDATION OF THE
MAGISTRATE DUE TO LATE FILING
OF THE RESPONSE BY DEFENDANTS**

Courtroom: 790
Judge: The Hon. Margo A. Rocconi
Action Filed: September 9, 2021

The only difference between Trump and Newsom regarding the attempted election coups in 2021 is that Newsom came closer to getting away with it.

It appears that the magistrate judge in her May 2, 2022 Report and Recommendation (R&R) is attempting to codify the *void ab initio* unconstitutional act that facilitated the coup attempt as being lawful and somehow moot at the same time. However, as a matter of law, Governor Gavin Christopher Newsom's coup attempt was not lawful, nor is his illegal conduct protected against civil or criminal prosecution by the Eleventh Amendment to the United States Constitution. As a matter of law, neither is the instant federal case moot. See footnote 1.

PLAINTIFF'S RESPONSE & REQUEST THAT THE COURT OVERRULE DEFENDANT'S RESPONSE TO... PAGE | 1

Original document submitted June 28, 2022.

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8 **UNITED STATES DISTRICT COURT CENTRAL**
9 **DISTRICT OF CALIFORNIA WESTERN DIVISION**

10 **CARL GORDON,**
11 **Plaintiff,**

12 **v.**

13 Gavin Newsom, in his official capacity as
14 the Governor of the State of California;
15 Rob Bonta, in his official capacity as
16 Attorney General of the State of
17 California; Shirley N. Weber, in her
18 official capacity as Secretary of State of
19 the State of California; Steven J. Reyes,
20 in his official capacity as Chief Counsel
21 Office of the Secretary of State of the
22 State of California; and DOES 1 through
23 100,

24 **Defendants**

Case No.:

2:21-cv-07270-FMO-MAR

**PLAINTIFF'S RESPONSE AND
REQUEST THAT THE COURT
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PLAINTIFF'S RESPONSE & REQUEST THAT THE COURT OVERRULE DEFENDANT'S RESPONSE TO... PAGE | 1

1 ***No One, Neither Past Presidents nor Presidential Hopefuls, Is Above the Law.***

2
3 “All laws which are repugnant to the Constitution are null and void.” *Marbury vs. Madison*, 5 U.S. 137, (1803)

4 ...But if a case is on our docket and we have jurisdiction, we have an obligation
5 to decide it. As Chief Justice Marshall wrote for the Court in *Cohens v. Virginia*, 6
6 Wheat. 264, 404, 5 L.Ed. 257 (1821), “[w]e have no more right to decline the exercise of
jurisdiction, which is given, than to usurp that which is not given.”

7 “An unconstitutional act is not law; it confers no right; it imposes no duties;
8 affords no protection; it creates no office; it is in legal contemplation, as inoperative as
though it had never been passed.”

9 While acts of a *de facto* incumbent of an office lawfully created by law and
10 existing are often held to be binding from reasons of public policy, the acts of a person
assuming to fill and perform the duties of an office which does not exist *de jure* can have
11 no validity whatever in law. *Norton vs Shelby County*, 118 U.S. 425 p.442 (1886)

12 “Were rights secured by the Constitution are involved, there can be no rule
making or legislation which would abrogate them. *Miranda vs Arizona*, 384 U.S. 436 p.
13 491. (1966)

14 “The U.S. Constitution is the supreme law of the land, and any statute, to be
valid, must be in agreement. It is impossible for both the Constitution and a law violating
15 it to be valid; one must prevail. This is succinctly stated as follows:

16 The general rule is that an unconstitutional statute, though having the form and
name of law, is in reality no law, but is wholly void, and ineffective for any purpose;
17 since unconstitutionality dates from the time of its enactment, and not merely from the
date of the decision so branding it. An unconstitutional law, in legal contemplation, is as
18 inoperative as if it had never been passed.

19 Such a statute leaves the question that it purports to settle just as it would be had
the statute not been enacted. Since an unconstitutional law is void, the general principles
20 follow that it imposes no duties, confers no rights, creates no office, bestows no power or
authority on anyone, affords no protection, and justifies no acts performed under it ... A
21 void act cannot be legally consistent with a valid one.

22 An unconstitutional law cannot operate to supersede any existing valid law.
Indeed, insofar as a statute runs counter to the fundamental law of the land, it is
23 superseded thereby. **16th American Jurisprudence, 2nd Section 177**

24 “No one is bound to obey an unconstitutional law and no courts are bound to
enforce it. The general rule is that an unconstitutional statute, though having the form and
25 the name of law, is in reality no law, but is wholly void, and ineffective for any purpose,
since unconstitutionality dates from the time of its enactment, and not merely from the
26 date of the decision so branding it.” **16th American Jurisprudence 2d, Section 177 late
2nd, section 256**

SENATE BILL NO. 152, CHAPTER 34 WAS AN UNCONSTITUTIONAL ACT FOR THE EXCLUSIVE BENEFIT OF GOVERNOR GAVIN CHRISTOPHER NEWSOM DESPITE BEING VOID AB INITIO

There never will be a cessation of the irreparable harm and betrayal of trust (visited upon the people of California) resulting from the conspiratorial crimes perpetrated by Defendants, which are enumerated in the preceding related state court action *Gordon v. Weber* (Sacramento County Superior Court, Case No. 34-2021- 80003695, Descendants’ request for judicial notice of the related case granted May 2, 2022), in the instant federal lawsuit pleaded in the complaint, and in subsequent filings by Plaintiff against Governor Gavin Newsom, Attorney General Rob Bonta, California Secretary of State Dr. Shirley N. Weber, and Steven J. Reyes, chief counsel in the office of the California secretary of state.

Consequently, Defendants’ brazen criminal conduct in furtherance of their fraudulent recall election scheme and their deprivation of Plaintiff’s rights under color of law under the U.S. Constitution in this instant federal court action are not moot¹ as a matter of law.

¹The Supreme Court applied Roman Catholic Diocese in *Tandon v. Newsom*, holding that a challenge to California’s pandemic restrictions on religious gatherings was not moot because California officials “retain[ed] authority to reinstate” the challenged restrictions “at any time.” 141 S. Ct. 1294, 1297 (2021) (per curiam) (citing *S. Bay United Pentecostal Church v. Newsom*, 141 S. Ct. 716, 720 (2021) (Statement of Gorsuch, J.) (explaining that case was not moot because California officials have a record of “moving the goalposts”). [Emphasis added.]

A party “cannot automatically moot a case simply by ending its unlawful conduct once sued,” else it “could engage in unlawful conduct, stop when sued to have the case declared moot, then pick up where [it] left off, repeating this cycle until [it] achieves all [its] unlawful ends.” Already, *LLC v. Nike, Inc.*, 568 U.S. 85, 91, 133 S. Ct. 721, 184 L.Ed.2d 553 (2013). *United States v. Sanchez-Gomez*, 138 S. Ct. 1532, 1537 n.* (2018) A defendant cannot, however, automatically moot a case simply by ending its unlawful conduct once sued. *City of Mesquite v. Aladdin’s Castle, Inc.*, 455 U. S. 283, 289. Instead, “a defendant claiming that its voluntary compliance moots a case bears the formidable burden of showing that it is absolutely clear the allegedly wrongful behavior could not reasonably be expected to recur.” *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U. S. 167, 190. Pp. 3–4. [Emphasis added.]

“...However, in instances where the mootness is attributable to a change in the legal framework governing the case, and where the plaintiff may have some residual claim under the new framework that was understandably not asserted previously, our practice is to vacate the judgment and remand for further proceedings in which the parties may, if necessary, amend their pleadings or develop the record more fully.” See *Diffenderfer v. Central Baptist Church of Miami, Inc.* , 404 U.S. 412, 415 [92 S. Ct. 574, 30 L.Ed.2d 567] (1972).

1 The erroneous mootness proffered by the magistrate judge in her R&R dated May 2,
2 2022—“However, a court necessarily abuses its discretion when its decision is based solely on
3 an erroneous conclusion of law.” *Colon v. Option One Mortg. Corp.*, 319 F.3d 912, 916 (7th
4 Cir. 2003) as well as that of Defendants’ proposition that the case is moot is antithetical and is
5 in conflict with recent arguments put forth by Associate Justices Samuel Alito and Neil
6 Gorsuch of the Supreme Court of the United States—see footnote 1—and *N.Y. State Rifle &
7 Pistol Ass’n v. City of New York*, 140 S. Ct. 1525, 1529 (2020).

8 Defendants’ criminal conspiratorial conduct brought about the scheme that resulted in
9 the unconstitutional act (at 10:45 p.m. on June 28, 2021, with the unconstitutional execution of
10 Governor Newsom’s wet signature) known as the 2021 California gubernatorial recall election
11 appropriation bill—Senate Bill No. 152, Chapter 34—that was used to facilitate the conspiracy

12
13 Thus, in this case, we must apply the well-established standards for determining whether a case is moot,
14 and under those standards, we still have a live case before us. It is certainly true that the new City ordinance and the
15 new State law give petitioners most of what they sought, but that is not the test for mootness. Instead, “a case
16 ‘becomes moot only when it is impossible for a court to grant any effectual relief whatever to the prevailing
17 party.’” *Chafin v. Chafin*, 568 U.S. 165, 172, 133 S. Ct. 1017, 185 L.Ed.2d 1 (2013) (emphasis added). “As long
18 as the parties have a concrete interest, however small, in the outcome of the litigation, the case is not moot.” *Ibid.*
19 (emphasis added). *N.Y. State Rifle & Pistol Ass’n v. City of New York*, 140 S. Ct. 1525, 1528 (2020)

20 “If a live controversy ceases to exist—i.e., if a case becomes moot—then we have no jurisdiction to proceed. But
21 in order for this to happen, a case must really be dead, and as noted, that occurs only “when it is impossible for a
22 court to grant any effectual relief whatever to the prevailing party.” *Ibid.* (quoting *Knox v. Service Employees*, 567
23 U. S. 298, 307 (2012)). “[A]s long as the parties have a concrete interest, however small, in the outcome of
24 the litigation, the case is not moot.” *Chafin*, 568 U. S., at 172 (quoting *Knox*, 567 U. S., at 307–308). Thus, to
25 establish mootness, a “demanding standard” must be met. *Mission Product Holdings, Inc. v. Tempnology, LLC*, 587
26 U. S. ___, ___ (2019) (slip op., at 6). We have been particularly wary of attempts by parties to manufacture
27 mootness in order to evade review. See *Knox*, 567 U. S., at 307; accord, *Northeastern Fla. Chapter, Associated
28 Gen. Contractors of America v. Jacksonville*, 508 U. S. 656, 661 (1993). And it is black-letter law that we have a
“virtually unflagging” obligation to exercise our jurisdiction. *Colorado River Water Conservation Dist. v. United
States*, 424 U. S. 800, 817 (1976). In this case, the amended City ordinance and the new State law gave petitioners
most of what they sought in their complaint, but the new laws did not give them complete relief. It is entirely
possible for them to obtain more relief, 13 Cite as: 590 U. S. ___ (2020) ALITO, J., dissenting and therefore this
case is not moot. *N.Y. State Rifle & Pistol Ass’n v. City of New York*, 140 S. Ct. 1525, 1528 (2020) [Emphasis
added.]

“Mootness doctrine does not require such results. A challenge to an allegedly unconstitutional law does not become
moot with the enactment of new legislation that reduces but does not eliminate the injury originally alleged. And
that is the situation here.” *N.Y. State Rifle & Pistol Ass’n v. City of New York*, 140 S. Ct. 1525, 1540 (2020)

1 to launch the fraudulent recall election scheme against California's 22 million registered voters
2 and, by extension, the swindling (by an illegal demand on July 9, 2021) from Plaintiff of
3 \$4,194.94 in a bogus candidate filing fee scheme for the fraudulent preordained recall election.

4 The state of California has no interest in withholding from Plaintiff his money, to which
5 the state has zero claim of right.

6 Plaintiff alluded to this fact in his cease-and-desist demand (via email letter) dated
7 Tuesday, July 13, 2021, demanding a halt to the sham recall election and a refund of Plaintiff's
8 candidate filing fee of \$4,194.94. The demand from Defendants California Secretary of State
9 Dr. Shirley N. Weber, Steven J. Reyes, chief counsel in the office of the California secretary of
10 state and others was sent only four days (two business days) after Plaintiff discovered he had
11 been swindled, and that the recall election was a sham and a conspiracy to commit election
12 fraud. Moreover, the state court case (*Gordon v. Weber* (Sacramento County Superior Court,
13 Case No. 34-2021- 80003695) was filed Friday, August 6, 2021, only 23 days after Plaintiff—a
14 nonlawyer—sent the cease and desist letter dated on July 13, 2021, ample time for co-
15 conspirator, and soon-to-be defendant, California Secretary of State Dr. Shirley N. Weber—
16 the chief election officer of California to stop the fraudulent recall election and to save the
17 federal government from being defrauded and to save California taxpayers hundreds of
18 millions of dollars.

19 Furthermore, the California secretary of state's office's demanding and collecting fees
20 from other similarly situated potential 2021 recall gubernatorial replacement candidates were
21 also civil and criminal violations by Defendants.

22 The entire 2021 recall gubernatorial election procedural scheme was embedded
23 (administered by the governor's handpicked, unelected secretary of state and attorney general)
24 with a manufactured, time-activated mootness doctrine hole card with an expiration date of
25 January 1, 2022, even though they knew that Senate Bill No. 152, Chapter 34 the
26 unconstitutional act was, in fact, *void ab initio*.

27 Defendants never expected to actually use the mootness hole card—the fraudulent
28 recall election and the usurping of the constitutional power and rights of the California voters
were the failsafe.

1 However, they were wrong, and they miscalculated, as evidenced by this instant federal
2 civil lawsuit and the Election Assistance Commission Office of the Inspector General’s referral
3 of Defendants’ violations of federal laws to the Department of Justice and the FBI, on
4 December 9, 2021.

5 Notwithstanding the magistrate judge’s knowledge of these facts, she submitted her
6 erroneous R&R void of any such facts, which was an abuse of her discretion. Further, the
7 magistrate judge did not allow or grant Plaintiff’s request, pursuant to Federal Rules of
8 Evidence Rule 201, for the court to take judicial notice of clear and convincing inculpatory
9 evidence of Defendants’ illegal illicit conduct and culpability, thus, it shows bias and judicial
10 prejudice toward Plaintiff. Again, as a matter of law, this appears to be an abuse of discretion.

11 The recall election scheme was a sophisticated, high-tech, soft-power coup d’état
12 against the **PEOPLE** of the state of California by and for the exclusive benefit of Governor
13 Gavin Newsom.

14 Additionally, all those who falsely believed that the recall election was free and fair
15 regardless of whether they voted for or against the recall of Governor Newsom in 2021 were
16 deceived and cheated by Defendants, Governor Newsom, and his handpicked California
17 constitutional officeholders in the name of the state of California.

18 Defendants fomented the secret sneak attack (an almost-successful soft-power, under-
19 the-radar, surreptitious coup, a method antithetical to the January 6 attempted coup in our
20 nation’s capital) against participatory democracy in California by usurping the power vested in
21 the **PEOPLE** of California for more than 110 years and strengthened by the legislature with
22 the approval of the **PEOPLE** in 1976, pursuant to Article II, Section 17 of the California
23 Constitution.

24 The California Constitution was amended (specifically, adding CA Constitution Art. II
25 § 17) by Proposition 14, which was approved on June 8, 1976, by the **PEOPLE** of California
26 to ironically guard against and counter government conspiracies against the **PEOPLE** and the
27 coup-like scenario, such as the fraudulent recall election of 2021 carried out by three of the
28 most powerful California constitutional officeholders—the defendants in this instant federal
lawsuit.

1 California Proposition 14 was a 1976 California legislative proposal with 100 percent
2 bipartisan approval by both chambers, a statewide ballot proposition presented to the voters for
3 their consideration to specifically strengthen and amend the recall language in the California
4 Constitution with the addition of Section 17, designed to eliminate the possibility of the conflict
5 of interest and self-dealing of a sitting governor who is the target of a recall. Moreover, Section
6 17 superseded a possible conflict with any other section of the California Constitution, such as
7 Article IV, Section 10, setting out the responsibility of the governor's signing bills into law.

8 Furthermore, Section 17 dovetails with Article IV, Section 10 of the California
9 Constitution by providing a remedy for such a conflict. On June 8, 1976, the California
10 Constitution amendment was approved overwhelmingly by the voters of California.

11 **The exact recall language added to the California Constitution by Proposition 14 on June 8,
12 1976, follows.**

13 **ARTICLE II VOTING, INITIATIVE AND REFERENDUM, AND RECALL SECTION 17**

14 **If recall of the Governor or Secretary of State is initiated, the recall duties of that office
15 shall be performed by the Lieutenant Governor or Controller, respectively. [Emphasis added.]**

16 (Sec. 17 added June 8, 1976, by Prop. 14. Res.Ch. 5, 1976.) <https://bit.ly/3tQD3nx>

17 (As of 6/28/22.)

18 The execution of the well-planned, willful, illegal conspiratorial criminal conduct by
19 Defendants on the night of June 28, 2021, caused Senate Bill No. 152, Chapter 34 to be dead
20 on arrival, consequently rendering the act immediately unconstitutional, *void ab initio*, and
21 unenforceable as a matter of law.

22 This significant, germane, and important information in the California Constitution about
23 the governing authority to conduct the 2021 gubernatorial recall was perhaps intentionally,
24 deliberately, and erroneously withheld from the May 2, 2022 R&R by the magistrate judge in the
25 instant case. It begs the question of why this was done.

1 **THIS CASE IS NOT MOOT. IT IS VERY MUCH ALIVE!**
2 **NOTWITHSTANDING THE MAGISTRATE JUDGE’S R&R,**
3 **THIS IS ABOUT PRESERVING OUR DEMOCRACY IN**
4 **THE MOST POPULOUS STATE IN THE UNION.**

5
6 On November 17, 2020, then-Secretary of State Alex Padilla, the chief election officer
7 of California, officially served written notice on Governor Newsom and warned him that he
8 was the target of a recall that was initiated June 10, 2020, and that the governor’s duties related
9 to the recall were to be performed by the lieutenant governor from the initiation date going
10 forward, pursuant to Cal. Const., Art. II, § 17. Governor Newsom ignored the warnings and
11 began to prepare his plot and coup against the people of California.

12 Furthermore, on April 28, 2021, 60 days in advance of the fraudulent coup attempt,
13 Governor Newsom and the general public were also publicly and officially notified via the
14 website of the current California secretary of state and California’s chief election officer, Dr.
15 Shirley Nash Weber, about the California Constitution’s mandates, California election laws,
16 and the protocol for administering the 2021 recall election. See

<https://web.archive.org/web/20210428233645/https://www.sos.ca.gov/elections/recalls/current-recall-efforts/newsom-recall-faqs> (as of 6/28/22.)

17 **Governor Newsom Recall Effort — Frequently Asked Questions, Secretary of State**
18 **Website**

19 **Who sets the date of the recall election?**

20 Normally, the Governor must call the election for a qualified statewide recall. However, when
21 the Governor is the officer sought to be recalled, **any of the Governor’s duties related to the recall are performed by the Lieutenant Governor** (Cal. Const., Art. II, § 17) (emphasis added).

22 Note the clear and unambiguous language, inherent in Cal. Const., Art. II, § 17, that no
23 recall-related decisions are to be made by the governor, which is to avoid any conflict of interest
24 and self-dealing by a sitting governor who is the target of the recall. This was posted and
25 disseminated to the public at least a full 60 days before Governor Newsom knowingly and
26 willfully forged Senate Bill No. 152, Chapter 34—the recall appropriation bill—into law and
27 filed the fake document with the secretary of state’s office for recording and chaptering.

1 This was a clear violation of the California Penal Code for the sole benefit of one
2 person—Defendant Governor Gavin Christopher Newsom—and it rendered the one-and-done
3 187-day act unconstitutional. Defendants’ unethical, willful conspiratorial actions led to
4 Governor Newsom’s forgery of the 187-day, self-serving, conflict-of-interest 2021 California
5 gubernatorial recall election appropriation bill, Senate Bill No. 152, Chapter 34, which he
6 approved, signed, and filed without proper constitutional authorization in the middle of the night,
7 at 10:45 p.m., on June 28, 2021.

8 The false document was officially recorded with the secretary of state’s office, which is a
9 felony under California Penal Code 115 PC (a) Penal Code 115 PC – Filing a False Document in
10 California, which states

11 115. (a) Every person who knowingly procures or offers any false
12 or forged instrument to be filed, registered, or recorded in any
13 public office within this state, which instrument, if genuine, might
14 be filed, registered, or recorded under any law of this state or of the
15 United States, is guilty of a felony.

16 Consequently, the criminal conspiracy to violate California Penal Code 115 PC(a) and
17 California election laws enabled Governor Newsom’s co-conspirator, Defendant California
18 Secretary of State Shirley N. Weber, and others to chapter the forged recall election document
19 (pursuant to California Code, Government Code GOV § 9510) to immediately become *de facto*
20 law, which directly impacted the governor’s financial interest, according to California Code,
21 Government Code GOV § 8920. (See Exhibit 1 Dkt. No. 18 Pages 29-37 PLAINTIFF’S
22 REQUEST FOR JUDICIAL NOTICE.)

23 To help understand the significance of these events, please consider that in a book titled
24 “The Responsible Public Servant,” the authors, Kenneth Kernaghan and John W. Langford,
25 articulate the meaning of self-dealing by government officials as

26 “a situation where one takes an action in an official capacity which involves
27 dealing with oneself in a private capacity and which confers a benefit on oneself.”

28 https://www.google.com/books/edition/The_Responsible_Public_Servant/JzzjoQEACAAJ?hl=en

(As of 6/28/22.)

1 **THE DEFENDANTS CONSPIRED TO VIOLATE THE CODE OF ETHICS AND THE**
2 **CONFLICT-OF-INTEREST COMMON LAWS**

3 Contrary to this untenable assertion by Defendants, Senate Bill No. 152, Chapter 34 was
4 not signed into law by Governor Newsom pursuant to his constitutional authority under Article
5 IV, Section 10 of the California Constitution. And even if the defense attorneys' assertions were
6 true, which they are not, THE COMMON LAW DOCTRINE AGAINST CONFLICTS OF
7 INTEREST would come into play.

8 Accordingly, the 2021 gubernatorial recall appropriation bill, Senate Bill No. 152,
9 Chapter 34, was illegal and unconstitutional and thus was unenforceable under the wet signature
10 of Governor Gavin Newsom on the night of June 28, 2021, One year ago of the signing of this
11 document. As a matter of law, for this unimpeachable inculpatory evidence not to be in the
12 magistrate judge's R&R is erroneous and egregiously prejudicial against Plaintiff.

13 **THE COMMON LAW DOCTRINE**

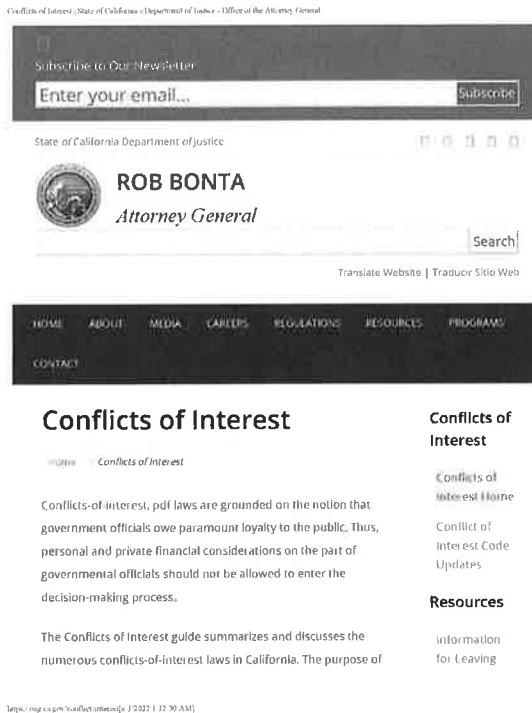
14 A substantial conflict arises when an official expects to derive a direct monetary gain or
15 suffer a direct monetary loss by reason of his or her official activity. **Where the officer will be**
16 **so affected by a decision, the officer should disqualify himself or herself from the decision.**
17 Because the recall of Governor Newsom was defeated, pursuant to Cal. Const., Art. II, Sec. 18,
18 the governor must be reimbursed by the state of California for all his recall election related legal
19 and personal expenses incurred. Moreover, the governor retains minus expenditures, the \$71
20 million in contributions specifically raised for his recall election campaign. Had Governor
21 Newsom been recalled by the people of California, none of his legal or personal recall election-
22 related expenses would have been refunded to him by the state. Governor Newsom knowingly
23 and willfully violated the common law doctrine of conflicts of interest. See XIII. The Common
24 Law Doctrine Against Conflicts of Interest, the Code of Ethics for elected officials in
25 California, when he signed the 187-day 2021 California gubernatorial recall election
26 appropriation bill— Senate Bill No. 152, Chapter 34—into *de facto* law on the night of June 28,
27 2021, in his own self-interest for personal financial interest in contravention to the California
28 Constitution. See State of California Department of Justice <https://oag.ca.gov/conflict-interest>
(As of 6/28/22).

XIII. THE COMMON LAW DOCTRINE AGAINST CONFLICTS OF INTEREST

A. Overview

In addition to the conflicts-of-interest prohibitions discussed in previous portions of this Guide, there is also a general prohibition against conflicts of interest in the “common law” of the state. The common law is a body of law that has been made by precedential judicial decisions and can be found in the reported California Supreme Court and appellate court cases. This law differs from statutory law, which is created by the Legislature and the Governor. Courts and this office have found conflicts of interest by public officials may violate both the common law and statutory prohibitions.

B. The Basic Prohibition The common law doctrine requires a public officer “to exercise the powers conferred on him with disinterested skill, zeal, and diligence and primarily for the benefit of the public.”(Noble v. City of Palo Alto (1928) 89 Cal. App. 47, 51 (citations omitted).) Therefore, actual injury is not required. Rather, “[f]idelity in the agent is what is aimed at, and as a means of securing it the law will not permit him to place himself in a position in which he may be tempted by his own private interests to disregard those of his principal.” (Ibid.) Stated another way, “[p]ublic officers are obligated, . . . [by virtue of their office], to discharge their responsibilities with integrity and fidelity.” (Terry v. Bender (1956) 143 Cal.App.2d 198, 206.) For example, in Clark v. City of Hermosa Beach (1996) 48 Cal.App.4th 1152, the court concluded that in an adjudicatory hearing, the common law is violated if a decision maker is tempted by his or her personal or pecuniary interests. In addition, the doctrine applies to situations involving a nonfinancial personal interest. (Id. at p. 1171, fn. 18; 92 Ops.Cal.Atty.Gen. 19 (2009).) [Emphasis added.] Conflicts-of-interest, pdf



“a situation where one takes an action in an official capacity which involves dealing with oneself in a private capacity and which confers a benefit on oneself.”

https://www.google.com/books/edition/The_Responsible_Public_Servant/JzzjoQEACAAJ?hl= (As of June 28, 2022)

1 The following is an excerpt of Respondent’s opposition to petition for writ of mandate filed
2 August 18, 2021 by the same defense attorneys in the preceding related state court action *Gordon*
3 *v. Weber* (Sacramento County Superior Court, Case No. 34-2021- 80003695), Descendants’
4 attorneys requested and was granted judicial notice of the aforementioned related case on May 2,
5 2022.

6 Defendants’ attorneys erroneously proffer the following:

7 **A. S.B. 152 Did Not Violate Article II, Section 17 of the California Constitution.**

8 Petitioner asserts that S.B. 152 is unconstitutional because it was signed into law by
9 Governor Newsom, rather than Lieutenant Governor Kounalakis, in violation of article II,
10 section 17 of the California Constitution, which requires that "(i)f recall of the Governor ...
is initiated, the recall duties of that office shall be performed by the Lieutenant Governor."
(Petn. at pp. 6, 19, , ni 2 J-23, 29-3 l.) The argument fails as a matter of law.

11 S.B. 152 was signed into law by Governor Newsom pursuant to his constitutional
12 authority under article IV, section 10 of the Constitution, which requires that each bill
13 passed by the Legislature shall be presented to the Governor, and will become law if
14 signed by the Governor. S.B. 152 establishes procedures governing recall elections;
Petitioner cites no authority, and there is none, suggesting that this somehow precluded the
Governor from carrying out his constitutional duty under article IV, section 10, and
signing the bill into law.

15 Contrary to Petitioner's arguments, the language of article II, section 17 does not help him.
16 Article II of the California Constitution governs the procedures relevant to statewide recall
17 elections. Article II, section 15, subdivision (a), requires that "[a]n election to determine
18 whether to recall an officer and, if appropriate, to elect a successor shall be called by the
19 Governor and held not less than 60 days nor more than 80 days from the date of
20 certification of sufficient signatures." (Emphasis added.) Calling the recall election is the
21 Governor’s **only constitutional “recall duty.”** Article II, section 17, further provides that
“(i)f recall of the Governor ... is initiated, the **recall duties** of that office shall be
22 performed by the Lieutenant Governor.” That is exactly what happened here. As required
23 by section 17, because this is a gubernatorial recall election, it was called by the
24 Lieutenant Governor, rather than the Governor. Signing S.B. 152 into law was not a
25 “recall duty” that had to be (or could be) performed by the Lieutenant Governor.

26 The above interpretation of the language of Article II, Section 17 of the California
27 Constitution by Defendants’ attorney, supervising Deputy Attorney General Paul Evan Stein,
28 SBN184956, is beyond a merely fallacious argument. It is a bad-faith, bald-faced lie!

The exact recall language states

***If recall of the Governor or Secretary of State is initiated, the recall duties of that office shall
be performed by the Lieutenant Governor or Controller, respectively.*** (Emphasis added.)

1 Mr. Stein reflects a certain kind of emptiness, shortcomings, and failures of defense, as
2 shown in the condescending and patronizing email dated December 28, 2021, cited below. And
3 as previously noted (to Mr. Stein) this action is not about what Plaintiff did or did not do as a
4 self-represented litigant. This case is all about your clients. Mr. Stein has shamelessly attempted
5 to shift the focus to Plaintiff in an attempt to blame the victim for the crimes perpetrated by
6 Defendants' strategy— a tactic often employed against African Americans in the practice of law,
7 under most circumstances and in other walks of life as well. Mr. Stein, please STOP!

8 Plaintiff has restrained himself going all the way back to September 2021 when you
9 shamelessly and blatantly insisted that Plaintiff turn the complaint over to you before the
10 documents were filed in federal court so you could determine if you would be the attorney
11 representing Governor Newsom. How foolish of a demand.

12 Perhaps, the learned attorney should consider taking his own unsolicited advice and leave
13 this case to others with professional integrity, honesty, and respect for people, their colleagues,
14 and the legal profession.

15 Peruse the December 28, 2021, email sent to Plaintiff by Mr. Stein.

16 Mr. Gordon: Thank you for your email. As we indicated last week, we see no justification for further
17 delay. You already obtained a lengthy extension of time to file your opposition to January 4 and
18 have not presented any "extraordinary circumstances" necessitating a further extension. You first
19 filed a state-court lawsuit and voluntarily dismissed it before the hearing. You then re-filed in federal
20 court. The defendants filed their motion to dismiss more than two months ago. Instead of responding
21 to the motion, you have argued repeatedly that the case should be stayed and/or significantly delayed.
22 We respectfully disagree. If you do not wish to proceed, you may voluntarily dismiss the action
23 under Rule 41. Regards, Paul Stein
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1 The R&R recommended denial of the motion based on the conclusion that Plaintiff's
2 claims for relief are moot. Because the recommendation as to mootness is based on manifest
3 errors of law and fact, the Court should reject the recommendation to Plaintiff's lawsuit. As
4 clearly and plainly as possible, in the complaint and all subsequent filings, Plaintiff has
5 presented inculpatory evidence that California gubernatorial recall election appropriation bill,
6 Senate Bill No. 152, Chapter 34, was illegal and an unconstitutional act when it was signed by
7 Governor Gavin Newsom on June 28, 2021. All that flowed from that unconstitutional act is
8 void and unenforceable, and any and all mootness was a result of Defendants' own calculated,
9 nefarious behavior. Moreover, "voluntary cessation of allegedly illegal conduct does not
10 deprive the tribunal of power to hear and determine the case, i.e., does not make the case
11 moot." *U.S. v. W.T. Grant Co.*, 345 U.S. 629, 632, 73 S.Ct. 894, 97 L.Ed. 1303 (1953); see
12 *Already*, 568 U.S. at 91, 133 S.Ct. 721 ("[A] defendant cannot automatically moot a case
simply by ending its unlawful conduct once sued.")

13
14 **DEFENDANTS CONCEDED TO PLAINTIFF'S OBJECTION TO THE R&R**

15 Prima facie evidence is attached hereto as **Exhibit A** NOTICE OF FILING OF
16 MAGISTRATE JUDGE'S R&R, screenshot of Plaintiff's PACER Electronic Records account
17 Billing History June 2,-16, 2022 Defendants Certificate of Service Page 7 dated and filed June
18 16, 2022, it's stamped June15, 2022 but it was filed on the June 16, 2022 and backdated June15,
19 2022.

20 Defendants did not comply with the court order to respond to Plaintiff's Objections
21 within 14 days after being served with a copy of the Plaintiff's Objections.

22 Defendants' failed to object within the time limit specified (within 14 days) after being
23 served with a copy of Plaintiff's Objections on June 1, 2022. Therefore, Defendants consented to
24 Plaintiff's findings of fact and Objections.

25 Therefore, Plaintiff is requests that Defendant's entire response (filed June 16, 2022) to
26 Plaintiff's Objections be overruled by the Court.

1 Because Defendant's response to Plaintiff's objections to the magistrate judge's R&R
2 was not timely filed, Plaintiff requests that Defendant's entire response to Plaintiff's objections
3 be overruled by the Court.

4 Moreover, Defendant's response to Plaintiff's objections to the R&R appears to be
5 more of a political Democratic Party mutual aid society letter in support of the magistrate
6 judge's and Defendants' indefensible and unjustifiable and untenable legal position than a
7 response to Plaintiff's salient, indisputable incriminating facts and the clear and convincing
8 inculpatory evidence of Defendants' illegal, illicit conduct. These are enumerated in the
9 complaint and in all subsequent documents filed by Plaintiff presented in the instant case as
10 well as the on-point objections to the R&R accompanied by numerous points and authority in
11 support of the objections thereof pursuant to the Court's order dated May 2, 2022, Dkt. 32, 33.

12 Furthermore, present in the complaint and in subsequent filings in support of the claims
13 and assertions in the instant case is corroborating inculpatory evidence that incriminates and
14 establishes far beyond a reasonable doubt Defendants' guilt and culpability as pleaded,
15 notwithstanding the magistrate judge's erroneous omission of the inculpatory evidence of
16 Defendants' culpability in her R&R.

17 The irrefutable evidence of Governor Newsom's and of his co-defendants' willful
18 criminal conspiracy and other felonious criminal conduct (violations of the California civil and
19 penal codes as well as federal statutes and the U.S. Constitution) in furtherance of their
20 conspiracy to commit election fraud was erroneously, prejudicially, and purposefully withheld

21 CONCLUSION

22 For the foregoing reasons, Plaintiff respectfully that the Court overrule Defendant's Response
23 To Plaintiff's Objections to the Report And Recommendation of the Magistrate Judge due to
24 late filing of the response by Defendants objects to the Magistrate Judge's Report and
25 Recommendation and the defendants' motions to dismiss should be denied, and request that the
26 Magistrate Judge's Report and Recommendation not be followed or adopted due to judicial
27 bias and prejudice against Plaintiff. Plaintiff's Complaint fully complies with the pleading
28 requirements of the Federal Rules of Civil Procedure and provides Defendants fair notice of
the charges against them and the grounds therefor. Discovery and argument will add further

PLAINTIFF'S RESPONSE & REQUEST THAT THE COURT OVERRULE DEFENDANT'S RESPONSE TO... PAGE | 15

1 detail later; in fact, additional supporting factual material was provided by Plaintiff in materials
2 filed. And that Plaintiff's Motion for leave to amend the Complaint should be GRANTED.

3
4 Dated: June 28, 2022

Respectfully submitted,

5 

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7 BY _____
8 CARL GORDON,
9 PLAINTIFF IN PRO PER
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28 PLAINTIFF'S RESPONSE & REQUEST THAT THE COURT OVERRULE DEFENDANT'S RESPONSE TO... PAGE | 16

EXHIBIT A

DEFENDANTS CONCEDED TO PLAINTIFF'S OBJECTION TO THE R&R

Prima facie evidence is attached hereto as Exhibit A NOTICE OF FILING OF MAGISTRATE JUDGE'S R&R, screenshot of Plaintiff's PACER Electronic Records account Billing History June 2,-16, 2022 Defendants Certificate of Service Page 7 dated and filed June 16, 2022, it's stamped June15, 2022 but it was filed on the June 16, 2022 and backdated June15, 2022.

Defendants did not comply with the court order to respond to Plaintiff's Objections within 14 days after being served with a copy of the Plaintiff's Objections.

Defendants' failed to object within the time limit specified (within 14 days) after being served with a copy of Plaintiff's Objections on June 1, 2022. Therefore, Defendants consented to Plaintiff's findings of fact and Objections.

Therefore, Plaintiff is requests that Defendant's entire response (filed June 16, 2022) to Plaintiff's Objections be overruled by the Court.

Because Defendant's response to Plaintiff's objections to the magistrate judge's R&R was not timely filed, Plaintiff requests that Defendant's entire response to Plaintiff's objections be overruled by the Court.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Carl Gordon,

PLAINTIFF(s) / PETITIONER(s)

V.

Gavin Newsom et al.,

DEFENDANT(s) / RESPONDENT(s)

CASE NUMBER:

2:21-cv-07270-FMO(MAR)

**NOTICE OF FILING OF
MAGISTRATE JUDGE'S REPORT
AND RECOMMENDATION**

TO: All Parties of Record

You are hereby notified that the Magistrate Judge's Report and Recommendation has been filed on May 2, 2022.

Any party having Objections to the Report and Recommendation and/or order shall, not later than June 1, 2022, file and serve a written statement of Objections with points and authorities in support thereof before the Honorable Margo A. Rocconi, U.S. Magistrate Judge. A party may respond to another party's Objections within 14 days after being served with a copy of the Objections.

Failure to object within the time limit specified shall be deemed a consent to any proposed findings of fact. Upon receipt of Objections and any Response thereto, or upon expiration of the time for filing Objections or a Response, the case will be submitted to the District Judge for disposition. Following entry of Judgment and/or Order, all motions or other matters in the case will be considered and determined by the District Judge.

The Report and Recommendation of a Magistrate Judge is not a Final Appealable Order. A Notice of Appeal pursuant to Federal Rules of Appellate Procedure 4(a)(1) should not be filed until entry of a Judgment and/or Order by the District Judge.

CLERK, UNITED STATES DISTRICT COURT

Dated: 5/02/22

By: 

Detailed Transaction Report by Date
All
from 06/01/2022 to 06/16/2022

Close

on Jun 16 17:36:26 CDT 2022

Back

New Search

Billing Transactions

Date	Time	Pages	Court	Client Code	Description	Search	Cost
6/02/2022							
6/02/2022	09:31:58	2	CACDC		History/Documents	2:21-cv-07270-FMO-MAR	\$0.20
6/02/2022	17:30:56	2	CACDC		History/Documents	2:21-cv-07270-FMO-MAR	\$0.20
6/02/2022	20:29:33	2	CACDC		History/Documents	2:21-cv-07270-FMO-MAR	\$0.20
6/02/2022	23:45:08	2	CACDC		History/Documents	2:21-cv-07270-FMO-MAR	\$0.20
6/02/2022	23:45:14	2	CACDC		History/Documents	2:21-cv-07270-FMO-MAR	\$0.20
Subtotal:		10	pages				\$1.00
		0	audio files (\$2.40 each)				\$0.00
							\$1.00
6/03/2022							
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6/03/2022	12:39:36	2	CACDC		History/Documents	2:21-cv-07270-FMO-MAR	\$0.20
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6/03/2022	17:06:35	2	CACDC		History/Documents	2:21-cv-07270-FMO-MAR	\$0.20
6/03/2022	17:07:53	27	CACDC		Image35-0	2:21-cv-07270-FMO-MAR Document 35-0	\$2.70
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		0	audio files (\$2.40 each)				\$0.00
							\$3.70
6/04/2022							
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6/04/2022	08:36:16	30	CACDC		Image34-0	2:21-cv-07270-FMO-MAR Document 34-0	\$3.00
6/04/2022	08:40:37	30	CACDC		Image36-0	2:21-cv-07270-FMO-MAR Document 36-0	\$3.00
Subtotal:		63	pages				\$6.30
		0	audio files (\$2.40 each)				\$0.00
							\$6.30
6/06/2022							
6/06/2022	13:22:47	2	CACDC		History/Documents	2:21-cv-07270-FMO-MAR	\$0.20
Subtotal:		2	pages				\$0.20
		0	audio files (\$2.40 each)				\$0.00
							\$0.20
6/07/2022							
6/07/2022	15:01:56	197	CACDC		Search	Filed From: 9/9/2021 Filed To: TODAY	\$19.70
6/07/2022	15:03:37	2	CACDC		History/Documents	2:21-cv-07270-FMO-MAR	\$0.20
6/07/2022	15:03:37	2	CACDC		History/Documents	2:21-cv-07270-FMO-MAR	\$0.20

Date	Time	Pages	Court	Description	Search	Cost
6/07/2022	19:07:15	1	CACDC	History/Documents		\$0.10
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		0	audio files (\$2.40 each)			\$0.00
						\$0.20
Case: 22-55640, 10/03/2022, ID: 12553997, DktEntry: 15-2, Page 26 of 76						
6/13/2022						
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						\$0.20
6/14/2022						
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6/14/2022	10:29:18	2	CACDC	History/Documents	2:21-cv-07270-FMO-MAR	\$0.20
6/14/2022	10:41:18	2	CACDC	History/Documents	2:21-cv-07270-FMO-MAR	\$0.20
6/14/2022	12:35:59	2	CACDC	History/Documents	2:21-cv-07270-FMO-MAR	\$0.20
6/14/2022	13:41:38	2	CACDC	History/Documents	2:21-cv-07270-FMO-MAR	\$0.20
6/14/2022	13:53:19	2	CACDC	History/Documents	2:21-cv-07270-FMO-MAR	\$0.20
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		0	audio files (\$2.40 each)			\$0.00
						\$2.10
6/16/2022						
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6/16/2022	14:45:51	5	CACDC	Docket Report	2:21-cv-07270-FMO-MAR End date: 6/16/2022	\$0.50
6/16/2022	14:54:38	1	CACDC	Image32-0	2:21-cv-07270-FMO-MAR Document 32-0	\$0.10
Subtotal:		15	pages			\$1.50
		0	audio files (\$2.40 each)			\$0.00
						\$1.50
Grand Total:						
		356	pages			\$35.60
		0	audio files (\$2.40 each)			\$0.00
						\$35.60

CERTIFICATE OF SERVICE

Case Name: *Gordon, Carl v. Gavin Newsom, et al.* Case No. 2:21-cv-07270-FMO-MAR

I hereby certify that on June 16, 2022, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

- **RESPONSE TO PLAINTIFF'S OBJECTIONS TO REPORT AND RECOMMENDATION OF MAGISTRATE**

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

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. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal 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 United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

I further certify that some of the participants in the case are not registered CM/ECF users. On June 16, 2022, I have caused to be mailed in the Office of the Attorney General's internal mail system, the foregoing document(s) by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days to the following non-CM/ECF participants:

Carl Gordon
8306 Wilshire Blvd. No. 792
Beverly Hills, CA 90211

In addition, I served the foregoing document(s) by transmitting a true copy via electronic mail, addressed as follows:

Email: universityofthehood@gmail.com

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on June 16, 2022, at San Francisco, California.

M. Mendiola
Declarant

M. Mendiola
Signature

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury that:

I am a citizen of the United States, over the age of 18, and not a party to the within cause of action. My address is 1125 So. Holt Ave, No. 3 CA 90035. On June 28, 2022, I served a true copy of the following document(s):

Case No. 2:21-cv-7270-FMO (MAR) PLAINTIFF’S RESPONSE AND REQUEST THAT THE COURT OVERRULE DEFENDANT’S RESPONSE TO PLAINTIFF’S OBJECTIONS TO THE REPORT AND RECOMMENDATION OF THE MAGISTRATE DUE TO LATE FILING OF THE RESPONSE BY DEFENDANTS

On the following party(ies) in said action:

ROB BONTA
Attorney General of California
PAUL STEIN
Supervising Deputy Attorney General
E-mail: Paul.Stein@doj.ca.gov
NATASHA SAGGAR SHETH
Deputy Attorney General
State Bar No. 282896
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
E-mail: Natasha.Sheth@doj.ca.gov
Attorneys for Defendants Gavin Newsom, in his official capacity as Governor of the State of California, Rob Bonta, in his official capacity as Attorney General of the State of California, Dr. Shirley Weber, in her official capacity as Secretary of State of the State of California, and Steven Reyes, in his official capacity as Chief Counsel for the Secretary of State of the State of California

BY EMAIL TRANSMISSION: By emailing the document(s) to the persons at the email addresses listed based on a court order or an agreement of the parties to accept service by email. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on June 28, 2022, in Los Angeles, California.



Mae Gordon

EXHIBIT C

On June 28, 2022, at 10:24:08 p.m., Gordon
received a confirmation email from the CACD'S Civic Intake section.



Gmail - Submission Confirmation

Carl Gordon <universityofthehood@gmail.com>

A true and correct copy only orientation had change from landscape to portrait for readability in this

Emergency Application For Stay Pending Petition For Writ Of Certiorari.

Submission Confirmation**EXHIBIT C**

1 message

Civil Intake <do-not-reply@cacd.uscourts.gov>
To: universityofthehood@gmail.com

Tue, Jun 28, 2022 at 10:24 PM

Dear Carl Gordon:

This email confirms that the document(s) listed below were received by the United States District Court for the Central District of California at the date and time indicated:

Name: Carl Gordon
Tracking Number: EDS-220628-000-4555
Date: 6/28/2022 10:24:08 PM

Uploaded files:

- **6 28 22 EXHIBIT A.pdf**
- **6 28 22 PLAINTIFF'S RESPONSE AND REQUEST THAT THE COURT OVERRULE DEFENDANT'S RESPONSE TO PLAINTIFF'S OBJECTIONS all.pdf**
- **6 28 22 proof of service.pdf**

The document(s) have not yet been filed. Just like documents received through the U.S. Mail, documents received through the Electronic Document Submission System ("EDSS") will not be considered filed until court staff have uploaded them into the Court's Case Management/Electronic Case Filing System ("CM/ECF"). Documents submitted using EDSS should be processed within 1-2 business days of receipt. However, the date of EDSS submission will be considered the filing date for any documents received through EDSS and later filed into CM/ECF.

If you are registered for electronic service of documents and receiving e-service in this case, you will receive a Notice of Electronic Filing ("NEF") from the CM/ECF System as soon as each document listed above has been filed. (Click here for information about registering for electronic service or to add e-service in this case.) If you are not registered for electronic service, you may check the status of your documents by checking the docket for your case on PACER (<https://pacer.uscourts.gov>). Please wait at least two business days after receiving this email and check the docket for your case on PACER before contacting the Court regarding the status of documents submitted through EDSS.

If you are trying to file a document in a case pending before the United States Bankruptcy Court, or in any case pending in any court other than the United States District Court for the Central District of California, your document will not be filed and you will not receive any response to your EDSS submission. Likewise, if you are an attorney required by the local rules to file your documents electronically using the Court's CM/ECF System, your document(s) will not be filed if submitted through EDSS, and you will not receive any further communication from the Court about your EDSS submission.

Please include the tracking number listed above as your reference on any communications with the Court about this submission. We recommend that you keep this email for your records.

Civil Intake
United States District Court
Central District of California
Tel: (213) 894-3535

EXHIBIT D

On June 29, 2022, Gordon sent an email to Bustos requesting an estimate of when she would file and enter the documents on the docket.



Carl Gordon <universityofthehood@gmail.com>

Dear Ms. Bustos, I filed the following documents below on June 28, 2022, please let me know when they will be filed and appear on the docket?

Carl Gordon <universityofthehood@gmail.com>

To: Erica Bustos <erica_bustos@cacd.uscourts.gov>

EXHIBIT D

Wed, Jun 29, 2022 at 3:10 PM

A true and correct copy only orientation had change from landscape to portrait for readability in this
Emergency Application For Stay Pending Petition For Writ Of Certiorari.

Magistrate Judge Courtroom Deputy Erica Bustos

Dear Ms. Bustos,

I filed the following documents below on June 28, 2022, please let me know when they will be filed and appear on the docket? Thank you.

Carl Gordon

Dear Carl Gordon:

This email confirms that the document(s) listed below were received by the United States District Court for the Central District of California at the date and time indicated:

Name: Carl Gordon

Tracking Number: EDS-220628-000-4555

Date: 6/28/2022 10:24:08 PM

Uploaded files:

- 6 28 22 EXHIBIT A.pdf
- 6 28 22 PLAINTIFF'S RESPONSE AND REQUEST THAT THE COURT OVERRULE DEFENDANT'S RESPONSE TO PLAINTIFF'S OBJECTIONS all.pdf
- 6 28 22 proof of service.pdf

Page 30

EXHIBIT E

July 7, 2022, corroborating email from the CACD ecf-helpdesk that the Central District Civic intake section emailed Judge Rocconi's chambers notifying them on June 29, 2022, that Gordon's documents were received on June 28, 2022.



Carl Gordon <universityofthehood@gmail.com>

RE: Website inquiry

ecf-helpdesk CACD <ecf-helpdesk@cacd.uscourts.gov>
To: "universityofthehood@gmail.com" <universityofthehood@gmail.com>

Carl,

The documents were received on 6/28/22 in the EDSS folder, and they were emailed to Judge Rocconi's chambers on 6/29/22 via EDSS email.

Thanks

-----Original Message-----

From: webmaster_cacd@cacd.uscourts.gov <webmaster_cacd@cacd.uscourts.gov>
Sent: Thursday, July 7, 2022 2:53 PM
To: ecf-helpdesk CACD <ecf-helpdesk@cacd.uscourts.gov>
Subject: Website inquiry

An inquiry has been submitted through the Courts Public Website.

Submitted on Thursday, July 7, 2022 - 2:53pm

Information submitted is as follows:

--Contact the Court--

Your name: Carl Gordon
Telephone: 3109263939
Email address: universityofthehood@gmail.com
Reason for contacting us: Assistance for People without Lawyers Your message:
Emailed June 6, 2022, to Ms. Gray at kiry.gray@cacd.uscourts.gov

Kiry K. Gray
District Court Executive/Clerk

Dear Carl Gordon:

This email confirms that the document(s) listed below were received by the United States District Court for the Central District of California at the date and time indicated:
Name: Carl Gordon
Tracking Number: EDS-220628-000-4555

Date: 6/28/2022 10:24:08 PM

Uploaded files:

6 28 22 EXHIBIT A.pdf

6 28 22 PLAINTIFF'S RESPONSE AND REQUEST THAT THE COURT OVERSULE DEFENDANT'S RESPONSE TO PLAINTIFF'S OBJECTIONS all.pdf

6 28 22 proof of service.pdf

EXHIBIT E

[Emphasis added.]

EXHIBIT F

On August 25, 2022, Gordon, requested and received a follow-up confirmation email, corroborating evidence that impeaches Olguin's false narrative "However, the filing was not processed until the Court had already considered and issued the judgment dismissing the action."-Dkt. 48., from ecf-helpdesk CACD with the following

Message: Carl, The EDSS submission was forwarded to Judge Rocconi's chambers on 6/29/2022 at 9:22 am. Thanks

Page 33



EXHIBIT F

Carl Gordon <universityofthehood@gmail.com>

A true and correct copy only orientation had change from landscape to portrait for readability in this

Emergency Application For Stay Pending Petition For Writ Of Certiorari.

RE: Re: Website inquiry

ecf-helpdesk CACD <ecf-helpdesk@cacd.uscourts.gov>

Thu, Aug 25, 2022 at 9:32 AM

To: Carl Gordon <universityofthehood@gmail.com>

Carl,

The EDSS submission was forwarded to Judge Rocconi's chambers on 6/29/2022 at 9:22 am.

[Emphasis added.]

Thanks

From: Carl Gordon <universityofthehood@gmail.com>

Sent: Thursday, August 25, 2022 4:06 AM

To: ecf-helpdesk CACD <ecf-helpdesk@cacd.uscourts.gov>

Subject: Re: Website inquiry

CAUTION - EXTERNAL:

Good morning, would you please indicate the time that the documents were emailed to Judge Rocconi's chambers on 6/29/22 via EDSS email?

Thank you

Carl

On Thu, Jul 7, 2022 at 3:22 PM ecf-helpdesk CACD <ecf-helpdesk@cacd.uscourts.gov> wrote:

Carl,

The documents were received on 6/28/22 in the EDSS folder, and they were emailed to Judge Rocconi's chambers on 6/29/22 via EDSS email.

[Emphasis added.]

Thanks

-----Original Message-----

From: webmaster_cacd@cacd.uscourts.gov <webmaster_cacd@cacd.uscourts.gov>

Sent: Thursday, July 7, 2022 2:53 PM

To: ecf-helpdesk CACD <ecf-helpdesk@cacd.uscourts.gov>

Subject: Website inquiry

An inquiry has been submitted through the Courts Public Website.

Submitted on Thursday, July 7, 2022 - 2:53pm

Information submitted is as follows:

--Contact the Court--

Your name: Carl Gordon

Telephone: 3109263939

Email address: universityofthehood@gmail.com

Reason for contacting us: Assistance for People without Lawyers

Your message:

Emailed June 6, 2022, to Ms. Gray at kiry.gray@cacd.uscourts.gov

Kiry K. Gray

District Court Executive/Clerk

Dear Carl Gordon:

This email confirms that the document(s) listed below were received by the United States District Court for the Central District of California at the date and time indicated:

Name: Carl Gordon

Tracking Number: EDS-220628-000-4555

Date: 6/28/2022 10:24:08 PM

Uploaded files:

6 28 22 EXHIBIT A.pdf

6 28 22 PLAINTIFF'S RESPONSE AND REQUEST THAT THE COURT
OVERRULE DEFENDANT'S RESPONSE TO PLAINTIFF'S OBJECTIONS

all.pdf

6 28 22 proof of service.pdf

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

EXHIBIT G

Based on the automated email messages generated by the case management/electronic case files (CM/ECF) system, the order accepting the findings of the U.S. magistrate judge was not filed and entered by the court until 1:20 p.m. on June 29, 2022,

MIME-Version:1.0 From:cacd_ecfmail@cacd.uscourts.gov To:noreply@ao.uscourts.gov
Message-Id:<34160532@cacd.uscourts.gov>Subject:Activity in Case 2:21-cv-07270-FMO-MAR Carl
Gordon v. Gavin Newsom et al R&R - Accepting Report and Recommendations Content-Type:
text/html

**This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT
RESPOND to this e-mail because the mail box is unattended.**

*****NOTE TO PUBLIC ACCESS USERS*** There is no charge for viewing opinions.**

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Notice of Electronic Filing

The following transaction was entered on 6/29/2022 at 1:20 PM PDT and filed on 6/29/2022

Case Name: Carl Gordon v. Gavin Newsom et al

Case Number: 2:21-cv-07270-FMO-MAR

Filer:

Document Number: 39

Docket Text:

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION OF UNITED STATES
MAGISTRATE JUDGE by Judge Fernando M. Olguin for NOTICE OF MOTION AND
MOTION to Dismiss Complaint [11], Report and Recommendation (Issued), [33] The Court
accepts the findings and recommendation of the Magistrate Judge. IT IS THEREFORE
ORDERED that Judgment be entered dismissing this action with prejudice. (es)**

2:21-cv-07270-FMO-MAR Notice has been electronically mailed to:

Natasha Saggar Sheth melissa.mendiola@doj.ca.gov, natasha.sheth@doj.ca.gov

2:21-cv-07270-FMO-MAR Notice has been delivered by First Class U. S. Mail or by other means

BY THE FILER to :

Carl Gordon

8306 Wilshire Blvd. No. 792

Beverly Hills CA 90211

EXHIBIT H

As confirmed by this automated email generated by the CM/ECF system, the judgment by Olguin, was not filed and entered until 1:37 p.m. on June 29, 2022.

MIME-Version:1.0 From:cacd_ecfmail@cacd.uscourts.gov To:noreply@ao.uscourts.gov
Message-Id:<34160724@cacd.uscourts.gov>Subject:Activity in Case 2:21-cv-07270-FMO-MAR Carl
Gordon v. Gavin Newsom et al Judgment Content-Type: text/html

**This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT
RESPOND to this e-mail because the mail box is unattended.**

*****NOTE TO PUBLIC ACCESS USERS*** There is no charge for viewing opinions.**

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Notice of Electronic Filing

The following transaction was entered on 6/29/2022 at 1:37 PM PDT and filed on 6/29/2022

Case Name: Carl Gordon v. Gavin Newsom et al

Case Number: 2:21-cv-07270-FMO-MAR

Filer:

WARNING: CASE CLOSED on 06/29/2022

Document Number: 40

Docket Text:

**JUDGMENT by Judge Fernando M. Olguin, Pursuant to the Order Accepting Findings and
Recommendation of United States Magistrate Judge, IT IS HEREBY ADJUDGED that this
action is dismissed with prejudice. Related to: R&R - Accepting Report and Recommendations,
[39] (MD JS-6, Case Terminated).(es)**

2:21-cv-07270-FMO-MAR Notice has been electronically mailed to:

Natasha Saggur Sheth melissa.mendiola@doj.ca.gov, natasha.sheth@doj.ca.gov

2:21-cv-07270-FMO-MAR Notice has been delivered by First Class U. S. Mail or by other means

BY THE FILER to :

Carl Gordon

8306 Wilshire Blvd. No. 792

Beverly Hills CA 90211

EXHIBIT I
MISCELLANEOUS CONSTITUTIONAL
REVISIONS California Proposition 14 (1976)

**University of California, Hastings College of the Law
UC Hastings Scholarship Repository**

Propositions

California Ballot Propositions and Initiatives

1976

**MISCELLANEOUS CONSTITUTIONAL
REVISIONS**

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Recommended Citation

MISCELLANEOUS CONSTITUTIONAL REVISIONS California Proposition 14 (1976).
http://repository.uchastings.edu/ca_ballot_props/835

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14

MISCELLANEOUS CONSTITUTIONAL REVISIONS**Ballot Title**

MISCELLANEOUS CONSTITUTIONAL REVISIONS. LEGISLATIVE CONSTITUTIONAL AMENDMENT. Repeals, amends, and renumbers various constitutional provisions relating to elections, recall, initiative and referendum, legislative rules and proceedings, municipal and justice courts, public officers and employees, water resources, homestead exemptions, labor relations and interest rates. Provides that certain amendments relating to interest rates shall become operative only upon the adoption, and other amendments also relating to interest rates only upon the rejection of Proposition 12. Financial impact: None.

FINAL VOTE CAST BY LEGISLATURE ON ACA 40 (PROPOSITION 14):

ASSEMBLY—Ayes, 60	SENATE—Ayes, 31
Noes, 0	Noes, 0

Analysis by Legislative Analyst**PROPOSAL:**

The provisions of the California Constitution are organized under numbered headings called Articles (for example, Article I—Declaration of Rights).

This proposition reorganizes parts of the California Constitution by transferring and combining provisions from certain articles and placing them, with minor changes, in the same or different articles.

For example, provisions relating to voting, the initiative and referendum, and recall are now scattered throughout the Constitution. This proposition brings these together under a single article. The proposition also recognizes other provisions such as those relating to labor relations, water resources, public officers and employees, and usury (lending money at an illegal interest rate).

Another proposed constitutional amendment on this same ballot (see Proposition 12) would amend and organize existing usury provisions in a manner different from that proposed by this proposition. Therefore, this proposition specifies the rules for determining which version of the usury provisions will be placed in the Constitution.

The meaning of the Constitution will not be affected by either the passage or the rejection of this proposition.

FISCAL EFFECT:

The proposition has no fiscal effect on state or local government.

Miscellaneous Constitutional Revisions

14

Argument in Favor of Proposition 14

Ten (10) years ago, the California Constitution Revision Commission submitted its first recommendation to the voters of California to update and modernize our California Constitution. Through voter acceptance of Commission proposals, more than 40,000 words have been deleted from the Constitution and every Article, except two, has been amended or revised. This measure renumbers and reorders the Sections and Articles that have been revised. It further corrects spelling errors, gender changes, and makes the State Constitution more logical, coherent and readable. This is a most fitting action to take in this Bicentennial Year. The proposal has the support of the League of

Women Voters of California and no opposition was expressed as the measure moved through the Legislature where it received unanimous support of the members of both houses.

JUDGE BRUCE W. SUMNER, *Chairman*
California Constitution Revision Commission

BARRY KEENE
Member of the Assembly, 2nd District

SAM FARR
Member, Monterey County
Board of Supervisors

No argument against Proposition 14 was submitted

See Page 64 for the Text of Proposition 14

TEXT OF PROPOSITION 3 —continued from page 15

tions may provide for the denial of funds when the purposes of this chapter may most economically and efficiently be attained by means other than the construction of the proposed project.

13968.1. The State Department of Health shall notify suppliers that may be eligible for loans pursuant to this chapter of (a) the purposes of this chapter, and (b) the rules and regulations adopted by the department.

13968.3. The State Department of Health, after public notice and hearing and with the advice of the department, shall from time to time establish a priority list of suppliers to be considered for financing.

13968.5. Upon approval by the State Department of Health of project plans submitted by a supplier on the priority list and upon issuance to the supplier of a permit or amended permit as specified in Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code, the department may enter into a contract with the supplier.

13968.7. No more than twenty million dollars (\$20,000,000) of state loans for projects shall be authorized by the department in a single calendar quarter. No contract shall be approved by the department unless the department finds that the supplier has the capacity to repay the loan amounts specified in the contract.

The Public Utilities Commission shall furnish comments at the request of the department concerning the ability of suppliers subject to their jurisdiction to finance the project from other sources and the ability to repay the loan.

13969. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereon.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on such bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of such revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

All money deposited in the fund which has been derived from premium on bonds sold shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

13870. All money repaid to the state pursuant to any contract executed under the provisions of Section 13861 shall be deposited in the General Fund and when so deposited shall be applied as a reimbursement to the General Fund on account of principal and interest on bonds issued pursuant to this chapter which has been paid from the General Fund.

13871. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this chapter such an amount as will equal the following:

(a) Such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter, as such principal and interest become due and payable.

(b) Such sum as is necessary to carry out the provisions of Section 13872, which sum is appropriated without regard to fiscal years.

13872. For the purpose of carrying out the provisions of this chapter, the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund and shall be disbursed by the department in accordance with this chapter. Any moneys made available under this section to the department shall be returned by the department to the General Fund from moneys received from the first sale of bonds sold for the purpose of carrying out this chapter subsequent to such withdrawal.

13873. Upon request of the department, supported by a statement of the proposed arrangements to be made pursuant to Section 13861 for the purposes therein stated, the committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to make such arrangements, and, if so, the amount of bonds then to be issued and sold. Successive issues of bonds may be authorized and sold to make such arrangements progressively, and it shall not be necessary that all of the bonds herein authorized to be issued shall be sold at any one time.

13874. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the State Treasurer.

13875. All proceeds from the sale of bonds, except those derived from premiums and accrued interest, shall be available for the purpose provided in Section 13861, but shall not be available for transfer to the General Fund to pay principal and interest on bonds. The money in the fund may be expended only as herein provided.

TEXT OF PROPOSITION 14

This amendment proposed by Assembly Constitutional Amendment No. 40 (Statutes of 1976, Resolution Chapter 5), as amended by ACA 90 (Statutes of 1976, Resolution Chapter 24), amends, amends and renumbers, adds, and repeals various sections and articles of the Constitution. Therefore, the provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions are printed in *italic type*.

PROPOSED AMENDMENTS
TO THE CONSTITUTION

First—That Section 26 of Article I is amended and renumbered to be Section 1 of Article II.

SEC. 96 SECTION 1. All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require.

Second—That Section 28 of Article I is amended and renumbered to be Section 26:

SEC. 98 26. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

Third—That the heading of Article II is amended to read:

ARTICLE II

SUFFRAGE VOTING, INITIATIVE AND REFERENDUM, AND RECALL

Fourth—That Section 1 of Article II is amended and renumbered to be Section 2:
SECTION 2 SEC. 2. A United States citizen 18 years of age and resident in this state may vote.

Fifth—That Section 2 of Article II is amended and renumbered to be Section 3:

SEC. 3 3. The Legislature shall define residence and provide for registration and free elections.

Sixth—That Section 3 of Article II is amended and renumbered to be Section 4:

SEC. 4 4. The Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony.

Seventh—That Section 4 of Article II is amended and renumbered to be Section 5:

SEC. 5 5. The Legislature shall provide for primary elections for partisan offices, including an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit of noncandidacy.

Eighth—That Section 5 of Article II is amended and renumbered to be Section 6:

SEC. 6 6. Judicial, school, county, and city offices shall be nonpartisan.

Ninth—That Section 6 of Article II is amended and renumbered to be Section 7:

SEC. 7 7. Voting shall be secret.

Tenth—That Section 13 is added to Article II, to read:

SEC. 13 Recall is the power of the electors to remove an elective officer.

Eleventh—That Section 14 is added to Article II, to read:

SEC. 14 (a) Recall of a State officer is initiated by delivering to the Secretary of State

a petition alleging reason for recall. Sufficiency of reason is not reviewable. Proponents have 160 days to file signed petitions.

(b) A petition to recall a statewide officer must be signed by electors equal in number to 12 percent of the last vote for the office, with signatures from each of 5 counties equal in number to 1 percent of the last vote for the office in the county. Signatures to recall Senators, members of the Assembly, members of the Board of Equalization, and judges of courts of appeal and trial courts must equal in number 20 percent of the last vote for the office.

(c) The Secretary of State shall maintain a continuous count of the signatures certified to that office.

Twelfth—That Section 15 is added to Article II, to read:

SEC. 15. An election to determine whether to recall an officer and, if appropriate, to elect a successor shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures. If the majority vote on the question is to recall, the officer is removed and, if there is a candidate, the candidate who receives a plurality is the successor. The officer may not be a candidate, nor shall there be any candidacy for an office filled pursuant to subdivision (d) of Section 16 of Article VI.

Thirteenth—That Section 16 is added to Article II, to read:

SEC. 16. The Legislature shall provide for circulation, filing, and certification of petitions, nomination of candidates, and the recall election.

Fourteenth—That Section 17 is added to Article II, to read:

SEC. 17. If recall of the Governor or Secretary of State is initiated, the recall duties of that office shall be performed by the Lieutenant Governor or Controller, respectively.

Fifteenth—That Section 18 is added to Article II, to read:

SEC. 18. A State officer who is not recalled shall be reimbursed by the State for the officer's recall election expenses legally and personally incurred. Another recall may not be initiated against the officer until six months after the election.

Sixteenth—That Section 19 is added to Article II, to read:

SEC. 19. The Legislature shall provide for recall of local officers. This section does not affect counties and cities whose charters provide for recall.

Seventeenth—That Section 20 is added to Article II, to read:

SEC. 20. Terms of elective offices provided for by this Constitution, other than Members of the Legislature, commence on the Monday after January 1 following election. The election shall be held in the last even-numbered year before the term expires.

Eighteenth—That Section 3 of Article IV is amended to read:

SEC. 3. (a) Except as provided in subdivision (e), the The Legislature shall convene in regular session at noon on the first Monday in December of each even-numbered year and each house shall immediately organize. Each session of the Legislature shall adjourn sine die by operation of the Constitution at midnight on November 30 of the following even-numbered year.

(b) On extraordinary occasions the Governor by proclamation may cause the Legislature to assemble in special session. When so assembled it has power to legislate only on subjects specified in the proclamation but may provide for expenses and other matters incidental to the session.

(e) The Legislature shall convene the regular session following the addition of this subdivision at noon on January 8, 1973. The term of office of the legislators elected at the general election in 1972 shall commence at noon on January 8, 1973.

Nineteenth—That Section 7 of Article IV is amended to read:

EXHIBIT J

Cal. Const. art. II §13, §14, and §17



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*** CALIFORNIA CONSTITUTION - CONS**

ARTICLE II VOTING, INITIATIVE AND REFERENDUM, AND RECALL [SECTION 1 - SEC. 20] (*Heading of Article 2 amended June 8, 1976, by Prop. 14. Res.Ch. 5, 1976.*)

SEC. 17. If recall of the Governor or Secretary of State is initiated, the recall duties of that office shall be performed by the Lieutenant Governor or Controller, respectively.

(Sec. 17 added June 8, 1976, by Prop. 14. Res.Ch. 5, 1976.)

SEC. 13. Recall is the power of the electors to remove an elective officer.
(Sec. 13 added June 8, 1976, by Prop. 14. Res.Ch. 5, 1976.)

SEC. 14. (a) Recall of a state officer is initiated by delivering to the Secretary of State a petition alleging reason for recall.

EXHIBIT K

Certified list of defrauded gubernatorial replacement candidates and the fees paid by them to the SOS for the 2021 California Recall Election

State of California

SECRETARY OF STATE

CERTIFIED LIST OF CANDIDATES
SEPTEMBER 14, 2021, CALIFORNIA GUBERNATORIAL RECALL ELECTION

OFFICE OF THE SECRETARY OF STATE
STATE OF CALIFORNIA

I, Shirley N. Weber, Ph.D., Secretary of State of the State of California, pursuant to Elections Code sections 8120, 8148, and 11381(a), do hereby certify

That the following list contains the name and, if applicable, the ballot designation and party preference of each person who are entitled to receive votes at the California Gubernatorial Recall Election to be held on Tuesday, September 14, 2021.

Dated at Sacramento, California, this 21st day of July, 2021.



A handwritten signature in black ink, appearing to read "Shirley N. Weber".

Shirley N. Weber, Ph.D.
SECRETARY OF STATE

Official Certified List of Candidates

7/21/2021
Page 1 of 3

Governor

Holly L. Baade Mother/Business Owner	Democratic
John R. Drake College Student	Democratic
Patrick Kilpatrick Actor/Screenwriter/Producer	Democratic
Jacqueline McGowan Cannabis Policy Advisor	Democratic
Kevin Paffrath Financial Educator/Analyst	Democratic
Armando "Mando" Perez-Serrato No Ballot Designation	Democratic
Brandon M. Ross Physician/Attorney	Democratic
Joel Ventresca Retired Airport Analyst	Democratic
Daniel Watts Free Speech Lawyer	Democratic
David Alexander Bramante Realtor/Multifamily Developer	Republican
John Cox Businessman/Accountant/Father	Republican
Larry A. Elder Broadcaster/Author	Republican
Kevin L. Faulconer Businessman/Educator	Republican
Rhonda Furin Nonprofit President	Republican
Ted Gaines Board of Equalization Member	Republican
Sam L. Gallucci Pastor/CEO/Consultant	Republican
David Hillberg Aircraft Mechanic/Actor	Republican
Caitlyn Jenner Businessperson/Entrepreneur	Republican
Kevin Kiley California Legislator	Republican
Chauncey "Slim" Killens Retired Correctional Officer	Republican

Official Certified List of Candidates

7/21/2021
Page 2 of 3

Governor

Jenny Rae Le Roux	Republican
Business Owner/Mother	
Steve Chavez Lodge	Republican
Retired Homicide Detective	
David Lozano	Republican
Executive Officer/Attorney	
Diego Martinez	Republican
Businessman	
Daniel Mercuri	Republican
Father/Business Owner	
Robert C. Newman II	Republican
Farmer/Psychologist	
Doug Ose	Republican
Farmer/Small Businessman	
Sarah Stephens	Republican
Pastor	
Denver Stoner	Republican
Deputy Sheriff	
Joe M. Symmon	Republican
Community Volunteer	
Anthony Trimino	Republican
Entrepreneur/CEO	
Nickolas Wildstar	Republican
Musician/Entrepreneur/Father	
Leo S. Zacky	Republican
Businessman/Farmer	
Heather Collins	Green
Business Owner/Hairstylist	
Dan Kapelovitz	Green
Criminal Defense Attorney	
Jeff Hewitt	Libertarian
Riverside County Supervisor	
Angelyne	No Party Preference
Entertainer	
James G. Hanink	No Party Preference
Retired Educator	
Kevin K. Kaul	No Party Preference
Real Estate Developer	
Michael Loeb	No Party Preference
University Lecturer	
Denis Lucey	No Party Preference
Teacher	

Official Certified List of Candidates

7/21/2021
Page 3 of 3

Governor

Jeremiah "Jeremy" Marciniak No Ballot Designation	No Party Preference
David Moore Public School Teacher	No Party Preference
Adam Papagan Entertainer	No Party Preference
Dennis Richter Retail Store Worker	No Party Preference
Major Singh Software Engineer	No Party Preference

September 14, 2021, California Gubernatorial Recall Election

Certified Candidate Name	Payment Method	Amount
Holly L. Baade	Check	4187.15
John R. Drake	Check	4188.95
Patrick Kilpatrick	Check	4194.94
Jacqueline McGowan	Check	4194.94
Kevin Paffrath	Check	4194.94
Armando "Mando" Perez-Serrato	Check	4194.94
Brandon M. Ross	Check	4194.94
Joel Ventresca	Check	4141.01
Daniel Watts	Check	4155.99
David Alexander Bramante	Check	4194.94
John Cox	Check	4194.94
Larry A. Elder	Check	4194.94
Kevin L. Faulconer	Check	4194.94
Rhonda Furin	Check	4194.94
Ted Gaines	Check	4194.94
Sam L. Gallucci	Check	4102.05
David Hillberg	Check	4194.94
Caitlyn Jenner	Check	4194.94
Kevin Kiley	Check	4194.94
Chauncey "Slim" Killens	Check	4194.94
Jenny Rae Le Roux	Check	4194.94
Steve Chavez Lodge	Check	4194.94
David Lozano	Check	4194.94
Diego Martinez	Check	4194.94
Daniel Mercuri	Check	4194.94
Robert C. Newman II	Check	4133.21
Doug Ose	Check	4194.94
Sarah Stephens	Check	4115.24
Denver Stoner	Check	4194.94
Joe M. Symmon	Check	4194.94
Anthony Trimino	Check	4194.94
Nickolas Wildstar	Money order	4194.94
Leo S. Zacky	Check	4194.94
Heather Collins	Check	4194.94
Dan Kapelovitz	Check	4194.94

September 14, 2021, California Gubernatorial Recall Election

Certified Candidate Name	Payment Method	Amount
Jeff Hewitt	Money order	4194.94
Angelyne	Check	4194.94
James G. Hanink	Check	4098.46
Kevin K. Kaul	Check	4189.56
Michael Loeb	Check	4194.94
Denis Lucey	Check	4194.94
Jeremiah "Jeremy" Marciniak	Check	4164.98
David Moore	Check	4194.94
Adam Papagan	Check	4143.40
Dennis Richter	Check	4095.46
Major Singh	Check	4194.94

Inactive Candidate Name	Payment Method	Amount
Sonya Berg	Check	4194.94
Arthur Ayala	Check	4194.94
Carl Gordon	Check	4194.94
David Shantz	Check	4193.74
Frederick Charles Schultz	Check	4190.22
Joseph Ketner	Check	4194.94
Mariana Dawson	Check	4194.94
Matthew P. Tate	Check	4194.94
Mauro Alberto Orozco	Check	4194.94
Paul Kangus	Credit	4194.94

EXHIBIT L

Mendiola certify the certificate of service on June 16, 2022.

It appears that Paul Stein, as the supervising deputy attorney general turned a blind eye.

CERTIFICATE OF SERVICE

Case Name: *Gordon, Carl v. Gavin Newsom, et al.* Case No. 2:21-cv-07270-FMO-MAR

I hereby certify that on June 16, 2022, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

- **RESPONSE TO PLAINTIFF'S OBJECTIONS TO REPORT AND RECOMMENDATION OF MAGISTRATE**

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

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. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal 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 United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

I further certify that some of the participants in the case are not registered CM/ECF users. On June 16, 2022, I have caused to be mailed in the Office of the Attorney General's internal mail system, the foregoing document(s) by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days to the following non-CM/ECF participants:

Carl Gordon
8306 Wilshire Blvd. No. 792
Beverly Hills, CA 90211

In addition, I served the foregoing document(s) by transmitting a true copy via electronic mail, addressed as follows:

Email: universityofthehood@gmail.com

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on June 16, 2022, at San Francisco, California.

M. Mendiola
Declarant

M. Mendiola
Signature

EXHIBIT M

June 29, 2022, Email “Dear Ms. Bustos, I filed the following documents below on June 28, 2022, please let me know when they will be filed and appear on the docket? Thank you. Carl Gordon”



EXHIBIT M

Carl Gordon <universityofthehood@gmail.com>

A true and correct copy only orientation had change from landscape to portrait for readability in this

Emergency Application For Stay Pending Petition For Writ Of Certiorari.

Dear Ms. Bustos, I filled the following documents below on June 28, 2022, please let me know when they will be filed and appear on the docket?

Carl Gordon <universityofthehood@gmail.com>

Wed, Jun 29, 2022 at 3:10 PM

To: Erica Bustos <erica_bustos@cacd.uscourts.gov>

Magistrate Judge Courtroom Deputy Erica Bustos

Dear Ms. Bustos,

I filled the following documents below on June 28, 2022, please let me know when they will be filed and appear on the docket? Thank you.

Carl Gordon

Dear Carl Gordon:

This email confirms that the document(s) listed below were received by the United States District Court for the Central District of California at the date and time indicated:

Name: Carl Gordon

Tracking Number: EDS-220628-000-4555

Date: 6/28/2022 10:24:08 PM

Uploaded files:

- 6 28 22 EXHIBIT A.pdf
- 6 28 22 PLAINTIFF'S RESPONSE AND REQUEST THAT THE COURT OVERRULE DEFENDANT'S RESPONSE TO PLAINTIFF'S OBJECTIONS all.pdf
- 6 28 22 proof of service.pdf

EXHIBIT N

On July 6, 2022, Gordon sent Bustos an email stating,
“Dear Ms. Bustos, I filed the following documents below on June 28, 2022, a week ago, would you please tell me (when they will be filed) and why it has not been filed as of the dated June 28, 2022, and entered on the official docket?
Thank you for your assistance in this matter.”



EXHIBIT N Carl Gordon <universityofthehood@gmail.com>

A true and correct copy only orientation had change from landscape to portrait for readability in this

Emergency Application For Stay Pending Petition For Writ Of Certiorari.

Dear Ms. Bustos, I filled the following documents below on June 28, 2022, please let me know when they will be filed and appear on the docket?

Carl Gordon <universityofthehood@gmail.com>

Wed, Jul 6, 2022 at 1:04 PM

To: Erica Bustos <erica_bustos@cacd.uscourts.gov>, Isabel Martinez <Isabel_Martinez@cacd.uscourts.gov>

Erica Bustos
Magistrate Judge Courtroom Deputy
for Magistrate Judge Margo A. Rocco

Dear Ms. Bustos,

I filled the following documents below on June 28, 2022, a week ago, would you please tell me (when they will be filed) and why it has not been filed as of the dated June 28, 2022, and entered on the official docket? Thank you for your assistance in this matter.

Sincerely and seriously,

Carl Gordon, MPA, University of Southern California
Co-founder and the first steward of the University of the 'Hood®
University of the 'Hood, Ph.D., *summa cum laude*

cc: Isabel Martinez <Isabel_Martinez@cacd.uscourts.gov>

RE: Filing information (EDSS) - Case #: 2:21-cv-07270-FMO-MAR

Dear Carl Gordon:

This email confirms that the document(s) listed below were received by the United States District Court for the Central District of California at the date and time indicated:

Name: Carl Gordon
Tracking Number: EDS-220628-000-4555
Date: 6/28/2022 10:24:08 PM

Uploaded files:

- 6 28 22 EXHIBIT A.pdf
- 6 28 22 PLAINTIFF'S RESPONSE AND REQUEST THAT THE COURT OVERRULE DEFENDANT'S RESPONSE TO PLAINTIFF'S OBJECTIONS all.pdf
- 6 28 22 proof of service.pdf

----- Forwarded message -----

From: **Carl Gordon** <universityofthehood@gmail.com>

Date: Wed, Jun 29, 2022 at 3:13 PM

Subject: Fwd: Dear Ms. Bustos, I filled the following documents below on June 28, 2022, please let me know when they

Gmail - Dear Ms. Bustos, I filled the following documents below on June 28, 2022, please let me know when they will be filed and ...

will be filed and appear on the docket?

To: Erica Bustos <erica_bustos@cacd.uscourts.gov>

RE: Filing information (EDSS) - Case #: 2:21-cv-07270-FMO-MAR

----- Forwarded message -----

From: **Carl Gordon** <universityofthehood@gmail.com>

Date: Wed, Jun 29, 2022 at 3:10 PM

Subject: Dear Ms. Bustos, I filled the following documents below on June 28, 2022, please let me know when they will be filed and appear on the docket?

To: Erica Bustos <erica_bustos@cacd.uscourts.gov>

Magistrate Judge Courtroom Deputy Erica Bustos

Dear Ms. Bustos,

I filled the following documents below on June 28, 2022, please let me know when they will be filed and appear on the docket? Thank you for your help.

[Quoted text hidden]

EXHIBIT O

Notice of Appeal Dkt.41 was entered
on 6 30 2022 at 3:18 PM

M/ECF - California Central District-Display Receipt

https://cacd-ecf.sso.dcn/cgi-bin/DisplayReceipt.pl?103210701781537...

MIME-Version:1.0
From:cacd_ecfmail@cacd.uscourts.gov
To:noreply@ao.uscourts.gov
Bcc:
--Paper recipients:
Carl Gordon
8306 Wilshire Blvd. No. 792
Beverly Hills CA 90211

EXHIBIT O

--Case Participants: Natasha Saggar Sheth (melissa.mendiola@doj.ca.gov, natasha.sheth@doj.ca.gov), Judge Fernando M. Olguin (crd_olguin@cacd.uscourts.gov), Magistrate Judge Margo A. Rocconi (crd_rocconi@cacd.uscourts.gov)
--Non Case Participants: Clerk, U S Court of Appeals - 9th Circuit, Pasadena (pasa_noa@ca9.uscourts.gov)
--No Notice Sent:

Message-Id:<34169355@cacd.uscourts.gov>
Subject:Activity in Case 2:21-cv-07270-FMO-MAR Carl Gordon v. Gavin Newsom et al Notice of Appeal to 9th Circuit Court of Appeals Content-Type: text/html

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.**

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

Notice of Electronic Filing

The following transaction was entered on 6/30/2022 at 3:18 PM PDT and filed on 6/30/2022

Case Name: Carl Gordon v. Gavin Newsom et al

Case Number: 2:21-cv-07270-FMO-MAR

Filer: Carl Gordon

WARNING: CASE CLOSED on 06/29/2022

Document Number: 41

Docket Text:

NOTICE OF APPEAL to the 9th CCA filed by plaintiff Carl Gordon. Appeal of Judgment, [40] Filed On: 6/29/22; Entered On: 6/29/22; Filing fee \$505, paid receipt number LA240517. (mat)

2:21-cv-07270-FMO-MAR Notice has been electronically mailed to:

Natasha Saggar Sheth melissa.mendiola@doj.ca.gov, natasha.sheth@doj.ca.gov

2:21-cv-07270-FMO-MAR Notice has been delivered by First Class U. S. Mail or by other means BY THE FILER to :

Carl Gordon

8306 Wilshire Blvd. No. 792 Beverly Hills CA 90211

EXHIBIT P

Ninth Circuit filed its Notification Dkt.42 entered on 7 5 2022 at 5: 27 PM and filed on 7 1, 2022.

v/ECF - California Central District-Display Receipt

https://caed-ecf.sso.dcn/cgi-bin/DisplayReceipt.pl?156211251664316

MIME-Version:1.0
From:caed_ecfmail@caed.uscourts.gov
To:noreply@ao.uscourts.gov
Bcc:
--Paper recipients:
Carl Gordon
8306 Wilshire Blvd. No. 792
Beverly Hills CA 90211

EXHIBIT P

--Case Participants: Natasha Saggar Sheth (melissa.mendiola@doj.ca.gov, natasha.sheth@doj.ca.gov), Judge Fernando M. Olguin (crd_olguin@caed.uscourts.gov), Magistrate Judge Margo A. Rocconi (crd_rocconi@caed.uscourts.gov)
--Non Case Participants:
--No Notice Sent:

Message-Id:<34188152@caed.uscourts.gov>
Subject:Activity in Case 2:21-cv-07270-FMO-MAR Carl Gordon v. Gavin Newsom et al USCA
Notification of Case Number Content-Type: text/html

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.**

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Notice of Electronic Filing

The following transaction was entered on 7/5/2022 at 5:27 PM PDT and filed on 7/1/2022

Case Name: Carl Gordon v. Gavin Newsom et al

Case Number: 2:21-cv-07270-FMO-MAR

Filer: Carl Gordon

WARNING: CASE CLOSED on 06/29/2022

Document Number: 42

Docket Text:

NOTIFICATION from Ninth Circuit Court of Appeals of case number assigned and briefing schedule. Appeal Docket No. 22-55640 assigned to Notice of Appeal to 9th Circuit Court of Appeals [41] as to plaintiff Carl Gordon. (es)

2:21-cv-07270-FMO-MAR Notice has been electronically mailed to:

Natasha Saggar Sheth melissa.mendiola@doj.ca.gov, natasha.sheth@doj.ca.gov

2:21-cv-07270-FMO-MAR Notice has been delivered by First Class U. S. Mail or by other means BY THE FILER to :

Carl Gordon

8306 Wilshire Blvd. No. 792 Beverly Hills CA 90211 **Page 66**

EXHIBIT Q

On July 7, 2022, Bustos sent Gordon an email stating, “Mr. Gordon, your case is closed.” It appears that Ms. Bustos’ email is prima facie evidence that Olguin and Rocconi had no intention of filing any corrective ruling for judicial lucidity.



EXHIBIT Q

Carl Gordon <universityofthehood@gmail.com>

A true and correct copy only orientation had change from landscape to portrait for readability in this
Emergency Application For Stay Pending Petition For Writ Of Certiorari.

Dear Ms. Bustos, I filled the following documents below on June 28, 2022, please let me know when they will be filed and appear on the docket?

Erica Bustos <erica_bustos@cacd.uscourts.gov>
To: Carl Gordon <universityofthehood@gmail.com>

Thu, Jul 7, 2022 at 1:32 PM

Mr. Gordon, your case is closed.



ERICA BUSTOS
MAGISTRATE JUDGE COURTROOM DEPUTY
TO THE HONORABLE MARGO A. ROCCONI
UNITED STATES DISTRICT COURT
CALIFORNIA CENTRAL DISTRICT COURT
255 East Temple Street
Los Angeles, CA 90012-3332
Office: (213) 894-3589 Fax: (213) 894-3035
Email: erica_bustos@cacd.uscourts.gov

From: Carl Gordon <universityofthehood@gmail.com>

Sent: Wednesday, July 6, 2022 1:04 PM

To: Erica Bustos <erica_bustos@cacd.uscourts.gov>; Isabel Martinez <Isabel_Martinez@cacd.uscourts.gov>

Subject: Fwd: Dear Ms. Bustos, I filled the following documents below on June 28, 2022, please let me know when they will be filed and appear on the docket?

CAUTION - EXTERNAL:

[Quoted text hidden]

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

EXHIBIT R

9 12 22 Email from EAC Acknowledgement of FOIA request



EXHIBIT R

Carl Gordon <universityofthehood@gmail.com>

A true and correct copy only orientation had change from landscape to portrait for readability in this
Emergency Application For Stay Pending Petition For Writ Of Certiorari.

Reporting serious credible federal crimes (election fraud and political corruption) to the U.S. Election Assistance Commission.

Camden Kelliher <ckelliher@eac.gov>
To: Carl Gordon <universityofthehood@gmail.com>
Cc: Brianna Schletz <BSchletz@eac.gov>

Mon, Sep 12, 2022 at 7:14 AM

Good morning,

Please find attached the EAC's acknowledgement of your submitted FOIA request. As noted in the letter, the request is assigned file number 22-00185.

Sincerely,

Camden Kelliher

Camden Kelliher | Associate Counsel
U.S. Election Assistance Commission
633 3rd Street NW, Suite 200 | Washington, DC 20001

From: Carl Gordon <universityofthehood@gmail.com>
Sent: Monday, September 12, 2022 8:09 AM
To: Camden Kelliher <ckelliher@eac.gov>; cam_kelliher@yahoo.com <cam_kelliher@yahoo.com>; briannaschletz@gmail.com <briannaschletz@gmail.com>; EACOIG <eacoig@eac.gov>; Brianna Schletz <BSchletz@eac.gov>
Subject: Fwd: Reporting serious credible federal crimes (election fraud and political corruption) to the U.S. Election Assistance Commission.

Caution: This email is from an external source. Please take care when clicking links or opening attachments. If the message looks suspicious, please use the Phish Alert Report button for the security team to review.

[Quoted text hidden]

 **FOIA Acknowledgment 22-00185.pdf**
108K



EXHIBIT R

U.S. Election Assistance Commission
633 3rd Street NW, Suite 200
Washington, DC 20001

VIA EMAIL

September 12, 2022

Carl Gordon
universityofthehood@gmail.com

Greetings:

This acknowledges the U.S. Election Assistance Commission's receipt of your Freedom of Information Act request:

"Under the Freedom of Information Act (FOIA), would you please send me the complete record (file) of email correspondence between Carl Gordon and Brianna Schletz Inspector General for 2021? And any and all correspondence between Ms.Schletz and FBI and DOJ personnel in this case. Please provide hard copies and please sent them via FedEx, with the shipping label provided."

Pursuant to 11 CFR § 9405.10 as a requester designated as "other," you will be charged search and duplication fees. However, the first two hours of search time and the first 100 pages of duplication are free. You will not be charged fees for review of documents. The EAC estimates that this FOIA request will not require more than 2 free hours of search time and will not require duplication of more than 100 pages. Therefore, the EAC does not anticipate that there will be fees associated with this request.

Your request has been referred to the EAC Office of Inspector General for processing. We have determined we will process your request pursuant to the Freedom of Information Act and EAC regulations. This request has been assigned file number 22-00185. You have the right to seek assistance from the EAC FOIA Public Liaison if you have questions regarding processing delays, transparency, request status, and dispute resolution.

Amanda Joiner, FOIA Public Liaison
ajoiner@eac.gov
301-563-3919

If you have any questions please contact my office at your convenience.

Sincerely,

Camden Kelliher

Camden Kelliher, Associate Counsel
U.S. Election Assistance Commission
ckelliher@eac.gov

EXHIBIT S

Therefore, a clear reading of Article II, Section 17 of the California Constitution requires that all gubernatorial recall powers, responsibilities, and duties automatically were transferred to the lieutenant governor. They include the authority, under Article IV, Section 10, to sign the appropriation bill for the funding of the 2021 gubernatorial recall. Accordingly, the recall was initiated on June 10, 2020, and on that date, all power, duties, and gubernatorial responsibilities for the recall—including the signing of the appropriation bill for funding of the recall election—were constitutionally transferred to the lieutenant governor.



ALEX PADILLA | SECRETARY OF STATE | STATE OF CALIFORNIA
ELECTIONS DIVISION

1500 11th Street, 5th Floor, Sacramento, CA 95814 | Tel 916.657.2166 | Fax 916.653.3214 | www.sos.ca.gov

EXHIBIT S

November 17, 2020

TO: All County Clerks/Registrars of Voters

Honorable Gavin Newsom
Governor, State of California
State Capitol Building, 1st Floor
Sacramento, CA 95814

Mr. Orrin E. Heatlie
104 Oneill Court
Folsom, CA 95630

RE: Recall of Governor Gavin Newsom: REVISED Calendar of Events

On June 10, 2020, the Secretary of State's office approved petitions for circulation for the recall of Governor Gavin Newsom.

On November 17, 2020, the Sacramento County Superior Court issued a final judgment in *Heatlie v. Padilla* (case number 34-2020-80003499) extending the time for the proponents of the current effort to recall Governor Gavin Newsom to circulate petitions from November 17, 2020, to and including March 17, 2021.

The following are some key points with regard to the recall process:

1. The petitions must be submitted to the elections official in the county in which the petitions were circulated. They may be submitted on multiple occasions at any time during circulation period that ends Wednesday, March 17, 2021.
2. Elections Code section 11104¹ requires each county to report all of the following to the Secretary of State every 30 days: 1) the number of signatures submitted during that 30-day period ending five days previously, excluding Saturdays, Sundays, and holidays; 2) the cumulative total of all signatures received since the initiation of the recall through the period ending five days previously, excluding Saturdays, Sundays, and holidays; 3) the number of valid signatures, verified pursuant to Section 11104(b), submitted during the previous reporting period, and of valid signatures verified during the current reporting period; and 4) the cumulative total of all valid signatures that have been verified since the initiation of the recall and ending five days previously, excluding Saturdays, Sundays, and holidays. These submissions should be directed to Jordan Kaku at petitions@sos.ca.gov.

¹ All section references are to the California Elections Code unless otherwise noted.

Recall of Governor Gavin Newsom – Revised Calendar of Events

November 17, 2020

Page 2

3. In accordance with section 11104(d), county elections officials are not required to verify any signatures until notified by the Secretary of State that the proponents have submitted at least 149,571 signatures, which is 10 percent of the total signatures required to qualify the recall for the ballot.
4. Section 11043 requires each signer to personally affix his or her signature, printed name, residence address (giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained), and the name of the incorporated city or unincorporated community in which the voter resides to the petition section in order for the signature to be valid.
5. Section 11102 requires each section of a recall petition to be filed with the elections official of the county in which it was circulated.
6. Section 11103 requires the proponents or a person authorized in writing by a proponent to file petition sections.
7. Initial signature withdrawal period: Sections 103 and 11303 permit any voter who signed the petition to remove their name by filing a written request that includes the voter's name, residence address, and signature with the county elections official prior to the filing of the petition section that contains the voter's name.
8. Supplemental signature withdrawal period: In addition, Section 11108(b) provides that any voter who has signed the petition and chooses to remove their name has 30 business days after the Secretary of State issues the notice to counties that a sufficient number of valid signatures has been collected to initiate a recall election to request this withdrawal in writing.
9. Sections of a recall petition are not public records, and as a result, only staff of the county elections official may have access to the petition sections. If the petition is found to be insufficient, the proponents listed on the notice of intention may examine the petition sections. (Gov. Code § 6253.5)
10. When a recall of the Governor is initiated, the recall duties of the Governor's office shall be performed by the Lieutenant Governor. (Cal. Const., art. II, § 17)

Dates and Deadlines

[Emphasis added.]

1. The minimum number of valid signatures required to qualify the recall is 1,495,709 (12% of the 12,464,235 votes cast in the last election for Governor). Valid signatures must be obtained from at least five counties and in each of those counties must equal at least 1% of the last vote for Governor. (Cal. Const., art. II, § 14(b))

MEMORANDUM

Submitted March 8, 2024 Before:
O'SCANNLAIN, KLEINFELD,
and SILVERMAN, Circuit Judges

We decline to consider matters not distinctly raised and argued in the opening brief. See *Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam).

Gordon strongly disagrees with this ruling because Exhibit “A,” the U.S. Election Assistance Commission (EAC) 36-page Certified Response FOIA, is critical evidence in support of Gordon’s central premise. Gordon argues that under Fed. R. Civ. P. 15(d)* – Supplemental Pleadings, the district court violated Gordon’s due process rights under the Fifth Amendment of the US Constitution by denying Gordon’s request to amend the complaint in the face of new evidence that became available from the EAC after the filing of the original complaint. See next page below.

Case 2:21-cv-07270-FMO-MAR Document 29 Filed 02/16/22 Page 7 of 28
Page ID #:961

1 Defendants, even in the face of Federal Rule of Civil Procedure Rules 15, 15(d),¹
 2 requested that this Court not allow Plaintiff leave to amend the complaint despite clear and
 3 convincing evidence that good cause exists, in this case, to do so.

4 Chief among that evidence are the emails from Brianna Schlitz, inspector general of the
 5 U.S. Election Assistance Commission (EAC), dated December 8 and 9, 2021, notifying
 6 Plaintiff that based on the review of Plaintiff's evidential documentation of fraud by
 7 Defendants provided to the EAC that pursuant to [IG Act, § 4(d)],² the EAC will provide the
 8 complaint to its DOJ and FBI points of contact.

9 On December 8, 2021, the EAC Office of the Inspector General (EACOIG) requested
 10 additional information. Upon review on December 9, the EACOIG referred the case to the DOJ
 11 and the FBI.

12 **EACOIG <eacoig@eac.gov> Wed, Dec 8, 2021, at 1:26 PM To Carl Gordon**
 13 **<universityofthehood@gmail.com>**

14 Your submission to the Election Assistance Commission (EAC) Office of Inspector General (OIG) has
 15 been received. To process your allegation, we need additional information on how this relates to the
 16 EAC and any misuse of EAC funds. Would you please share additional details or documentation in
 17 support of your submission that EAC funding was used for ballots in the recall election... Thank you,
 18 U.S. Election Assistance Commission Office of Inspector General

19 **EACOIG <eacoig@eac.gov> Wed, Dec 9, 2021, at 8:09 AM To Carl Gordon**
 20 **universityofthehood@gmail.com**

21 ¹ Under Federal Rule of Civil Procedure 15(d), provides Supplemental Pleadings ... **The court may permit**
 22 **supplementation even though the original pleading is defective in stating a claim or defense.** The court may
 23 order that the opposing party plead to the supplemental pleading within a specified time. (Emphasis added)

24 ... *Cabrera v. City of Huntington Park*, 159 F.3d 374, 382 (9th Cir.1998) (citation omitted). **In other words, Rule**
 25 **15(d) provides a mechanism for parties to file additional causes of action based on facts that did not exist**
 26 **when the original complaint was initially filed. ... after the initial pleadings are filed." *William Inglis & Sons***
 27 ***Baking Co. v. ITT Continental Baking Co., Inc.*, 668 F.2d 1014, 1057 (9th Cir.1981); see also *Keith v. Volpe*, 858**
 28 **F.2d 467, 473 (9th Cir.1988) (Emphasis added)**

² OIG investigations are conducted in accordance with the CIGIE Quality Standards for Investigations and Federal
 law. In conducting investigations, **whenever the IG has "reasonable grounds to believe there has been a**
violation of Federal criminal law," the IG must promptly report the matter to the Department of Justice
 These reports are to be made directly to the Department of Justice, without prior clearance by agency officials
 outside OIG. Source: The Inspectors General [https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-](https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title5a-node20-section4&num=0&edition=prelim)
[title5a-node20-section4&num=0&edition=prelim](https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title5a-node20-section4&num=0&edition=prelim). As of 2/14/22.

FILED

MAR 8 2024

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CARL GORDON,

Plaintiff-Appellant,

v.

GAVIN NEWSOM, in his official capacity as the Governor of the State of California; ROB BONTA, in his official capacity as Attorney General of the State of California; SHIRLEY WEBER, in her official capacity as Secretary of State of the State of California; STEVEN J. REYES, in his official capacity as Chief Counsel Office of the Secretary of State of the State of California; DOES, 1 through 100,

Defendants-Appellees.

No. 22-55640

D.C. No.
2:21-cv-07270-FMO-MAR

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Fernando M. Olguin, District Judge, Presiding

Submitted March 8, 2024**

Before: O'SCANNLAIN, KLEINFELD, and SILVERMAN, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Carl Gordon appeals pro se the district court's judgment dismissing without leave to amend his action under 42 U.S.C. § 1983 alleging that California's September 14, 2021, gubernatorial recall election violated his First and Fourteenth Amendment rights and California law. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Porter v. Jones*, 319 F.3d 483, 489 (9th Cir. 2003). We affirm.

The district court properly dismissed Gordon's claims for injunctive and declaratory relief because they are moot and do not fall within the exception to the mootness doctrine for claims that are capable of repetition, yet evading review. *See id.* at 489-90 ("A case becomes moot 'when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome.'"); the exception for claims that are capable of repetition, yet evading review may apply "where: (1) the challenged action was too short in duration to be fully litigated prior to its cessation or expiration; and (2) there is a reasonable expectation that the same complaining party will be subjected to the same action again" (citation omitted)).

The district court properly dismissed Gordon's claims for damages because they are barred by the Eleventh Amendment. *See Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984) ("It is clear . . . that in the absence of consent a suit in which the State or one of its agencies or departments is named as the

defendant is proscribed by the Eleventh Amendment.”); *Jackson v. Hayakawa*, 682 F.2d 1344, 1350 (9th Cir. 1982) (“Eleventh Amendment immunity extends to actions against state officers sued in their official capacities because such actions are, in essence, actions against the governmental entity[.]”).

The district court did not abuse its discretion in dismissing the complaint without leave to amend because amendment would have been futile. *See Brown v. Stored Value Cards, Inc.*, 953 F.3d 567, 573-74 (9th Cir. 2020) (setting forth standard of review and factors that a court should consider in determining whether to grant leave to amend, including futility of amendment).

The record does not support Gordon’s contentions of judicial misconduct or bias. *See Liteky v. United States*, 510 U.S. 540, 555 (1994) (“judicial rulings alone almost never constitute a valid basis for a bias or partiality motion”).

We decline to consider matters not distinctly raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam). **[Emphasis added.]**

Gordon’s petition for initial hearing en banc (Dkt. Entry No. 5) is DENIED.

AFFIRMED.

No. 22-55640

**In the United States Court of Appeals
for the Ninth Circuit**

CARL GORDON,
Plaintiff-Appellant,

v.

GAVIN NEWSOM, ET AL.
Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT
COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

CASE NO. 2:21-cv-7270-FMO (MAR)

(THE HON. FERNANDO MANZANO OLGUIN)

APPELLANT'S EXHIBIT A INFORMAL REPLY BRIEF ADDENDA

Exhibit A
U.S. Election Assistance Commission
FOIA Response Certified 36 pages



U.S. Election Assistance Commission
633 3rd Street NW, Suite 200
Washington, DC 20001

I, Amanda Joiner, Acting General Counsel of the U.S. Election Assistance Commission, certify that the attached records contained in FOIA Response 22-00185, consisting of 36 pages, are accurate and complete duplicates of the original records maintained by the U.S. Election Assistance Commission pursuant to the Freedom of Information Act. Portions of these certified records have been redacted pursuant to 5 U.S. Code § 552(b)(6).

Signed,

Amanda Stevens Joiner

Amanda Joiner
Acting General Counsel
U.S. Election Assistance Commission



U.S. Election Assistance Commission
633 3rd Street NW, Suite 200
Washington, DC 20001

September 28, 2022

Carl Gordon
8306 Wilshire Blvd., No. 792
Beverly Hills, CA 90211
universityofthehood@gmail.com

Greetings:

This letter is in response to your Freedom of Information Act request (No. 22-00185):

“Under the Freedom of Information Act (FOIA), would you please send me the complete record (file) of email correspondence between Carl Gordon and Brianna Schletz Inspector General for 2021? And any and all correspondence between Ms.Schletz and FBI and DOJ personnel in this case. Please provide hard copies and please sent them via FedEx, with the shipping label provided.”

Records responsive to your request are enclosed. Records have been redacted pursuant to 5 U.S.C. 552(b)(6).

This letter completes the response to your request. If you interpret any portion of this response as an adverse action, you may appeal this action to the Election Assistance Commission. Your appeal must be in writing and sent to the address set forth below. Your appeal must be postmarked or electronically transmitted within 90 days from the date of the acknowledgment to your request. Please include your reasons for reconsideration and attach a copy of this and subsequent EAC responses.

U.S. Election Assistance Commission
FOIA Appeals
633 3rd Street NW, Suite 200
Washington, DC 20001

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you have any questions please contact my office at your convenience.

Sincerely,

Camden Kelliher

Camden Kelliher, Associate Counsel
U.S. Election Assistance Commission
ckelliher@eac.gov

**TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF THE
SUPREME COURT OF THE UNITED STATES AND CIRCUIT
JUSTICE FOR THE NINTH CIRCUIT**

INTRODUCTION

Pursuant to United States Supreme Court Rule 22 (Application to Individual Justices) and Rule 23 (Stays: Certiorari to the United States Ninth Circuit Court of Appeals), before entering its mandate in that court under 28 U.S.C. § 2101 and 28 U.S.C. § 1651, it is reviewable by this Court via a writ of certiorari. This Court has the authority to stay (or recall a mandate of the Ninth Circuit Court of Appeals and order if already issued and entered) pending the applicants' filing of a petition for a writ of certiorari and this Court's disposition of that petition, pursuant to 28 U.S.C. §§ 1651(a), 2101(f).

Based on information Applicant Carl Gordon received on April 1, 2024, during a telephone call to the clerk's office of the United States Ninth Circuit Court of Appeals the Court's mandate in the instant case is scheduled to be filed and entered on April 3, 2024. The Applicant's Emergency Application for Stay Pending Petition for Writ of Certiorari, was sent to the U.S. Supreme Court Clerk's Office via Federal Express on April 2, 2024.

However, unforeseen delays such as inclement weather patterns and other events, along with offsite security screening for packages delivered to the Supreme Court, may impact the timely receipt of the Applicant's document before the Ninth Circuit files its mandate. Consequently, in the alternative, Applicant respectfully requests that this Court recall the Ninth Circuit's mandate and stay the proceedings in the Ninth Circuit under Rule 41-1 (recall and stay) for good cause.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Applicant (Gordon) respectfully submits this Emergency Application for Stay Pending Petition for Writ of Certiorari.

This case involves the Due Process Clauses of both the Fifth and Fourteenth Amendments to the United States Constitution and the violation of Gordon's rights therein. It also involves the violation of Article II of the Constitution of the State of California—Voting, Initiative and Referendum, and Recall, specifically Sections 15, 17, and 18, by California Governor Gavin Newsom and others, in the staging, processing, and administrating the 2021 California gubernatorial recall

election, as well as a violation of Sections 1983 of Chapter 42 of the United States Code.

For all of these reasons, Gordon respectfully requests that this Court grant a stay pending certiorari. Additionally, considering that it appears from the evidence that the Ninth Circuit intentionally delayed for 586 days¹ without taking any action on Gordon's request for an initial en banc hearing, spanning nearly 20 months, Gordon respectfully requests an immediate stay pending the resolution of this stay request.

Finally, given the exceptional importance of the issues presented (voting integrity, participatory democracy, voting, and civil rights), despite the Ninth Circuit's contradictory rulings regarding the 2021 California gubernatorial recall election's mootness, this case is not moot. In a unanimous published opinion ruling dated November 29, 2022, in the matter of *A. W. Clark v. Shirley Weber*, before the three-

¹ Gordon's petition for an initial en banc hearing was warranted. In fact, a decision to grant the initial en banc hearing under these circumstances would have been unprecedented. However, the circumstances in this case are unprecedented; the fact that the Ninth Circuit, *inter alia*, **waited 586 days** (from July 31, 2022, (**Docket No. [5]**) to March 8, 2024(**Docket No. [37]**)) to deny Gordon's petition for an initial hearing is unprecedented and violates due process, especially after Gordon requested Filed (ECF) Appellant Carl Gordon Correspondence: Notice of Delay pursuant to Rule 25-2. On 8/26/22 Deputy Clerk: DA stated all pending motions and requests will be addressed by separate order. Two motions pending longer than 4 mos. And a petition for an EN BANC hearing has been pending longer than 6 mo. Date of filing 02/01/2023 (**Docket No. [32]**) *Justice too long delayed is justice denied.* — Dr. Martin Luther King Jr.

judge panel—Circuit Judges Diarmuid F. O’Scannlain (O’Scannlain), Paul J. Watford (Watford), and Andrew D. Hurwitz (Hurwitz)—they held that the 2021 California gubernatorial recall election is not moot² and capable of repetition, a point conceded by John Echeverria, Deputy Attorney General in the Government Law Section of the California Attorney General’s Office, during oral arguments on October 20, 2022. The oral argument occurred 505 days before the March 8, 2024, decision in the present case declaring the 2021 California gubernatorial recall election moot. Accordingly, this Court should consider deeming this application a petition for certiorari and granting review so that this case can be heard and decided during this Term; before the General Election on November 5, 2024.

² To illustrate the judicial wisdom of the three-judge panel in October 2022 and their interpretation of the law, as well as their wise legal decision that the 2021 California gubernatorial recall election was not moot and capable of repetition, Gordon received an email response on Friday, March 29, 2024, at 4:35 p.m. The email, from the Public Records Act Request Staff for Legal Affairs of the California Secretary of State's Office, stated that a Notice of Intention to Recall Governor Gavin Newsom was filed on February 26, 2024, in their office, thereby corroborating the correctness of the three-judge panel’s decision in November 2022, and rebuking their March 8, 2024, interpretation of federal law for not applying the doctrine of stare decisis to the same legal issue.



SHIRLEY N. WEBER, Ph.D. | SECRETARY OF STATE | STATE OF CALIFORNIA
LEGAL AFFAIRS OFFICE
1500 11th Street | Sacramento, CA 95814 | 916.695.1242 | www.sos.ca.gov

March 29, 2024

Carl Gordon
universityofthehood@gmail.com

RE: California Public Records Act Request of March 25, 2024

Dear Carl Gordon,

Thank you for contacting the California Secretary of State with your request for records pursuant to the California Public Records Act. A copy of your request is attached.

The following records have been located in response to your request:

1. The Notice of Intention to Recall Governor Gavin Newsom dated February 26, 2024 – Seventy-eight pages.
2. Recall Party Preference Statement signed by Governor Gavin Newsom dated February 26, 2024 – One page.
3. Petition Submission letter dated March 5, 2024, Re: Effort to Recall Governor Gavin Newsom – Ten pages.
4. The Secretary of State, Elections Division letter to Anne Dunsmore's Notice of Intention to Recall Petition dated March 14, 2024 – Three pages.
5. Petition Submission letter dated March 15, 2024, Re: Effort to Recall Governor Gavin Newsom – Seven pages.
6. The Secretary of State, Elections Division letter to Anne Dunsmore's letter, dated March 20, 2024 – Two pages.
7. Petition Submission letter dated March 21, 2024, Re: Effort to Recall Governor Gavin Newsom – Five pages.
8. Gavin Newsom's statement to the Notice of Intention to Recall – Two pages.

The California Public Records Act permits the Secretary of State to collect statutory fees for the cost of producing copies of its records, which must be remitted at the time the records are requested. The statutory fees for reproduction of plain copies of the records you have requested are \$1.00 for the first page, and \$0.50 for each additional page, per record. However, we are able to provide the attached electronic copy of each record identified above at no charge.

We hope this information is helpful to you. If you have any questions about this or another matter related to records available at the Secretary of State's Office, please contact us again.

Sincerely,
Legal Affairs Office
Secretary of State

OPINIONS AND ORDERS BELOW

On March 8, 2024, the United States Court of Appeals for the Ninth Circuit FILED MEMORANDUM DISPOSITION (DIARMUID F. O'SCANNLAIN, ANDREW J. KLEINFELD and BARRY G. SILVERMAN) Gordon's petition for initial hearing en banc (Dkt. Entry No. [5]) is DENIED. AFFIRMED. FILED AND ENTERED JUDGMENT. [12867451] (AH) [Entered: 03/08/2024 09:36 AM]

On March 27, 2024, Filed order (DIARMUID F. O'SCANNLAIN, ANDREW J. KLEINFELD and BARRY G. SILVERMAN) Appellant's motion to stay the mandate (Docket No. [38]) is DENIED. [12872882] (WL) [Entered: 03/27/2024 03:14 PM]

STATEMENT OF THE CASE

The only possible way to have this EMERGENCY APPLICATION FOR STAY PENDING PETITION FOR WRIT OF CERTIORARI submitted in time is to present this portion of the STATEMENT OF THE CASE in an exhibit format to be able to present as much relevant information as possible under the circumstances.

LEGAL STANDARD

This Court will grant a stay of a district court's order, including in a case still pending before the United States Court of Appeals for the Ninth Circuit, if there is "(1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari; (2) a fair prospect that a majority of the Court will vote to reverse the judgment below; and (3) a likelihood that irreparable harm will result from the denial of a stay." *Hollingsworth*, 558 U.S. at 190; *San Diegans for the Mt. Soledad Nat'l War Mem'l v. Paulson*, 548 U.S. 1301, 1302 (2006) (Kennedy, J., in chambers); see also *Nken v. Holder*, 556 U.S. 418, 427–29 (2009); *West Virginia v. EPA*, 136 S. Ct. 1000 (2016); *Anderson v. Loertscher*, 137 S. Ct. 2328 (2017). Here applicant have satisfied these standards.

REASONS FOR GRANTING THE STAY

All the requirements for a stay pending certiorari are satisfied in this case. The enormity of the national importance and the crisis concerning the integrity of our elections warrant this Court's review. The question posed to Benjamin Franklin, "A republic, if you can keep it," remains highly relevant today. Furthermore, in this exceptionally significant

case, there is a reasonable likelihood that this Court would grant review and reverse the lower courts' decisions.

II. THERE IS A REASONABLE PROBABILITY THAT FOUR JUSTICES WILL CONSIDER THE ISSUE SUFFICIENTLY MERITORIOUS TO GRANT CERTIORARI

ARGUMENT

The Ninth Circuit Court of Appeals has made clear errors, and there is clear evidence of wrongdoing by the district court, the defendants, and their attorneys.

In light of the Constitution, the California Constitution, specifically Cal. Const. art. II §§ 15, 17, and 18, as well as the California Election Code and California Penal Code Section 115, this Court must act in the interest of justice, fairness, and the public interest.

It is imperative that this Court, (truly the court of last resort in this case) put a stop to the violation of Gordon's constitutional right to due process (guaranteed by both the 5th and 14th Amendments to the US

Constitution), especially when it appears they are favoring Governor Gavin Newsom and his co-defendants, whose actions clearly contravene both the U.S. and California Constitutions, as well as federal and state civil and criminal laws. Governor Gavin Newsom also knew or should have known that his illegal actions constituted a conflict of interest, as per California's common law doctrine of conflicts of interest, Government Code Section 8920, and the Code of Ethics for elected officials in California. The 187-day void *ab initio* laws signed by Newsom were for his exclusive benefit.³

Direct participatory democracy in California is sacrosanct. The overwhelming affirmative vote by the people to strengthen California's Constitution—Article II Voting, Initiative, and Referendum, and Recall through Proposition 14 in 1976—is proof positive of that. It has repeatedly been affirmed and protected not only by the California Supreme Court but also by federal courts. In nearly all cases, it has been unanimously upheld by the United States Court of Appeals for the

³ In the book, "The Responsible Public Servant," the authors, Kenneth Kernaghan and John W. Langford, articulate the meaning of self-dealing by government officials as "a situation where one takes an action in an official capacity which involves dealing with oneself in a private capacity and which confers a benefit on oneself."

Ninth Circuit, most recently on November 29, 2022, before a three-judge panel—Circuit Judges Diarmuid F. O’Scannlain (“O’Scannlain”), Paul J. Watford (“Watford”), and Andrew D. Hurwitz (“Hurwitz”)—in a unanimous ruling in the matter of A. W. Clark v. Shirley Weber, Case No. 21-56337 D.C. No. 2:21-cv-06558-MWF-KS, addressing Weber’s actions as California Secretary of State. A. W. Clark, Plaintiff-Appellant (“Clark”), challenged the constitutionality of Section 15 of California Constitution Article II – Voting, Initiative, and Referendum, and Recall.

Clark’s lawsuit failed, but what is paramount and most important here is that Clark’s constitutional procedural rights were upheld by the district court and the Ninth Circuit. His case was handled and executed with judicial precision. Clark was afforded the right to amend his complaint, (to tailor it for the circumstances— that he was injured therefore staving off mootness of the case) which is usually liberally granted by the district court and magistrate judges in this circuit. Please note that Clark’s case originated in the same district court— CDCA—as did Gordon’s case in approximately the same time frame, August-September 2021. And each case’s core issue centered on the constitutionality of certain aspects of the 2021 gubernatorial recall

election, with Governor Newsom as the main focus, is under scrutiny in relation to California Constitution Article II – Voting, Initiative and Referendum, and Recall.

However, due to the strong external, overpowering, long-term connection between Newsom and Rocconi, Gordon’s case was handled distinctly by Rocconi and Olguin. (With all due respect to the fine men and women judicial officers of the CDCA as exemplified in Clark’s case—judicial position—Rocconi’s and Olguin’s judicial misconduct was a tragic anomaly.) Gordon was not granted his multiple requests for leave to file an amended complaint, nor was Gordon granted the request for judicial notice in this case.

Clark’s and Gordon’s cases are fundamentally the same, with a distinction—Clark challenged the constitutionality of Article II – Section 15, while Gordon challenged the constitutionality of Newsom’s approval and signing of Senate Bill No. 152, Chapter 34—a preferential, discriminatory, and Newsom-specific bill—and the corresponding appropriation Assembly Budget Act 2021, No. 128, Chapter 21, in violation of Article II – Section 17.

It is Gordon's understanding of the Ninth Circuit's ruling that Clark challenged the legitimacy and constitutionality of the recall over the violation of his voting rights; he claimed that he was harmed as a result of not having the right to vote affirmatively for Newsom on Question 2 during the recall election on the same recall ballot. However, Clark was unable to persuade the district court or the Ninth Circuit of the validity of his argument. As a consequence, he lost on the merits. Once again, the significance of Clark's case lies in the fact that he had the opportunity to present his case on the merits before both the district court and Ninth Circuit—fair and square. Gordon did not have the same opportunity in the district court.

The following are excerpts from Clark's complaint filed August 13, 2021, and his first amended complaint, filed September 9, 2021.

Case 2:21-cv-06558-MWF-KS, Document 1, Filed 08/13/21, Page 1 of 6, Page ID #1
COMPLAINT 8/13/21

THE PARTIES

Defendant is the California officer who is charged with conducting and administering the Sept. 14, 2021 recall election.

Case 2:21-cv-06558-MWF-KS, Document 37, Filed 09/09/21, Page 2 of 6, Page ID #289
FIRST AMENDED COMPLAINT 9/9/21

THE PARTIES

Defendant is the California officer who is charged with conducting and administering the Sept. 14, 2021 recall election, and who has refused to enforce the one person, one vote requirement and the majority vote requirement.

IN THE OPINION FOR PUBLICATION, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT IN CASE NO. 21-56337 D.C. NO. 2:21-CV-06558-MWF-KS FILED NOVEMBER 29, 2022

The following is an excerpt from Watford’s ruling.

The panel first held that this case was not moot even though the election was completed and a majority of voters had defeated the effort to remove Governor Newsom from office. Clark adequately alleged a completed injury—namely, his inability to vote for Governor Newsom on question two during the recall election—that was fairly traceable to the California election procedures; and an award of nominal damages would redress that injury.

Completion of the recall election could have mooted this action, as Clark’s original complaint sought only prospective relief with respect to the September 2021 gubernatorial recall election. But Clark amended his complaint to add a request for nominal damages, which we presume he asserts against defendant Shirley Weber, California’s Secretary of State, in her individual capacity. See *Shoshone-Bannock Tribes v. Fish & Game Commission*, 42 F.3d 1278, 1284 (9th Cir. 1994). Clark has adequately alleged a completed injury—namely, his inability to vote for Governor Newsom on question two during the recall election—that is fairly traceable to the California election procedures he challenges. Because a Page 4 of 8 award of nominal damages would redress that injury, this case is not moot. See *Uzuegbunam v. Preczewski*, 141 S. Ct. 792, 801–02 (2021).

See the video of the oral arguments in 21-56337 A. *Clark v. Shirley Weber* before O’Scannlain, Watford, and Hurwitz. At 9:29 in the video, Hurwitz poses the question, “You are not contending that this is moot?” In the colloquy from 9:29 to 10:07 between Hurwitz and the lawyer, John D. Echeverria (“Echeverria”), appearing for the office of the attorney general, at 9:46 Echeverria concedes the recall case is not moot and capable of repetition.

https://www.youtube.com/watch?v=w5ckWMw_H_o

But for Rocconi’s violation of Federal Rules of Civil Procedure 15(d) –

But for Rocconi’s violation of Federal Rules of Civil Procedure denying Gordon’s multiple requests to amend the complaint – and her violation of 28 U.S. Code §§ 455 and 453, Gordon would have had the opportunity to cure any deficiencies in the complaint claimed by the magistrate judge and Defendants-Appellees’ attorneys. See Gordon’s multiple requests to amend the complaint throughout the proceedings under Fed. R. Civ. P. 15 that, for unknown reasons, were denied.

Because the Plaintiff is appearing pro se, the Plaintiff requests that the Court liberally construe this Complaint. This request is supported by the following authorities: *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Eldridge v. Block*, 832 F.2d 1132, 1137 (9th Cir. 1987) (“The Supreme Court has instructed federal courts to liberally construe the “inartful pleading” of pro se litigants.”) (citing *Boag v. MacDougall*, 454 U.S. 364, 365 (1982) (per curiam)).

“We liberally construe the pleadings of pro se litigants. *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998).” *Kemp v. United States*, No. 20-10958, 4 (11th Cir. May. 25, 2021) Holding that pro se pleadings “are held to a less stringent standard than pleadings drafted

by attorneys and will, therefore, be liberally construed” [plaintiff] is a pro se litigant whose pleadings are held to a less.

Plaintiff's request for additional time to oppose defendant's motion to dismiss 10/22/21

Gordon respectfully requests a similar amount of time to present the opposition to Defendant's motion to dismiss the action without leave to amend the pleading in contravention of Fed. R. Civ. P. 15(a).

See Case 2:21-cv-07270-FMO-MAR Document 15 Filed 10/22/21 Page 3 of 12 Page ID #:533

Plaintiff's Response to Defendants Opposition to Plaintiff's Second Request for Time 1/5/22

These facts alone not only demonstrates a good cause for an extension of time, but it also demonstratively demonstrate and establishes “good cause” for the Court to stay the proceedings to protect and preserve the constitutional rights of the Defendants as well as the Plaintiff, contrary to Defendant's counsel absurdity that the Defendants are prejudiced by a stay, or an extension of time until February 14, 2022, to Amended and file a Supplemental Pleadings Rule 15(a)and(b).

See Case 2:21-cv-07270-FMO-MAR Document 24 Filed 01/05/22 Page 4 of 15 Page ID #:843

Plaintiff's Opposition to Defendant's Motion to Dismiss... Plaintiff's Request Leave to Amend the

Pleadings Pursuant to Rule 15(a)(2), 15 (d) 2/15/22

Plaintiff can, in the amended pleadings, and did demonstrate beyond a reasonable doubt that Defendants' actions were discriminatory and done in bad faith...

As a matter of law under the circumstances, Plaintiff has a right to seek recovery from injuries and economic losses inflicted by Defendants, notwithstanding sovereign immunity. Furthermore, if the state or local government entities receive federal funding for whatever purpose, they cannot claim sovereign immunity if they are sued in federal court for discrimination. The United States Code, Title 42, Section 2000d-7 explicitly says this. *As long as the state entity receives federal funding, then the sovereign immunity for discrimination cases is not abrogated but voluntarily waived. Since receiving the federal funds was optional, then the waiver of sovereign immunity was optional.*

See Case 2:21-cv-07270-FMO-MAR Document 27 Filed 02/15/22 Page 18 of 22 Page ID #:945

PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO DISMISS... AND PLAINTIFF'S REQUEST LEAVE TO AMEND 5/2/22

Further, Plaintiff's claims should be allowed to proceed, notwithstanding Plaintiff's contemporaneous opposition to Defendants' motion for dismissal without leave to amend to cure any deficiencies, among them the legal option, often mistaken even by seasoned attorneys, to file a federal action seeking to impose personal liability based on Defendants' individual capacities or in their official capacities as government officers or subordinates for actions taken under color of state law as a part of their government work. Under 42 U.S.C. § 1983 and 18 U.S.C. § 242, Plaintiff is seeking relief based on Defendants' intentional discrimination and deprivation of Plaintiff's rights secured by the United States Constitution. Accordingly, for Plaintiff to receive damages sought despite sovereign immunity, Plaintiff must amend the complaint seeking to impose personal liability on Defendants in their individual capacities for their unlawful actions ...

**PLAINTIFF'S RESPONSE AND REQUEST THAT THE COURT OVERRULE
DEFENDANT'S RESPONSE 6/28/22**

Plaintiff's Complaint fully complies with the pleading requirements of the Federal Rules of Civil Procedure and provides Defendants fair notice of the charges against them and the grounds therefor. Discovery and argument will add further detail later; in fact, additional supporting factual material was provided by Plaintiff in materials filed. And that Plaintiff's Motion for leave to amend the Complaint should be GRANTED.

Case 2:21-cv-07270-FMO-MAR Document 44 Filed 06/28/22 Page 1 of 34 Page ID #:1169

**THE WILLFUL CONDUCT OF OLGUIN, ROCCONI, AND BUSTOS
VIOLATES FEDERAL CRIMINAL LAW.**

The willful conduct of Olguin, Rocconi, and Bustos violates federal criminal law, including Title 18 U.S. Code Section 1512—(A) withholding testimony or records, documents, or other objects from an official proceeding; (k) making misleading statements (18 U.S.C. § 1001) to the Ninth Circuit Court of Appeals. Title 18, U.S.C., § 242, violated Gordon's constitutional rights to due process by deliberately violating 28 U.S.C. § 636(b)(1)(C), Fed. R. Civ. P. 72(b)(3), L.R. 72-3.5, and 18 U.S.C. § 1512(c)(1) & (2), resulting in "conduct prejudicial to the effective and expeditious administration of the business of the courts.

APPLICANTS WILL SUFFER IRREPARABLE HARM ABSENT A STAY

The defendants schemed and defrauded the plaintiff and 56 other similarly situated recall replacement candidates. The harm was intentionally inflicted by the defendants. For nearly three years, they have withheld my property (money—\$4,194.94) and violated my rights under the due process clause of the 14th Amendment to the United States Constitution.

The defendant's schemed and defrauded plaintiff 56 other and similarly situated recall replacement candidates. The harm was inflicted on purpose by the defendants. For nearly three years they have had they've had my property (money—\$4194.94) and are violating my rights under the due process clause of the 14th Amendment to the United States Constitution.

4/2/24, 9:46 AM Gmail - Attached is a cease-and-desist letter requesting that you decertify Senate SB 152 and annul Lieutenant Governor Kounalaki...



Carl Gordon <universityofthehood@gmail.com>

Attached is a cease-and-desist letter requesting that you decertify Senate SB 152 and annul Lieutenant Governor Kounalakis' proclamation, which you cosigned on July 1, 2021, setting September 14, 2021

Reyes, Steve <SReyes@sos.ca.gov>
To: Carl Gordon <universityofthehood@gmail.com>
Cc: "Reyes, Steve" <SReyes@sos.ca.gov>

Wed, Jul 14, 2021 at 1:29 PM

Dear Mr. Gordon,

I write on behalf of the Secretary of State's office. We are in receipt of your cease-and-desist letter dated July 13, 2021, wherein you request that the Secretary of State 1.) refund your California Gubernatorial Recall Election replacement candidate filing fee of \$4,194.94; 2.) "decertify Senate SB 152 and annul Lieutenant Governor Kounalakis' proclamation" setting the date for the recall election on September 14, 2021; and 3.) reschedule the recall election for November 8, 2021.

California Election Code Section 8105(a) prohibits a refund of a filing fee and therefore we must respectfully decline your request. Section 8105(a) reads:

(a) The filing fees for all candidates shall be paid at the time the candidates obtain their nomination forms from the county elections official. The county elections official shall not accept any papers unless the fees are paid at the time required by this section, or unless satisfactory evidence is given to the county elections official or to the registrar of voters that the fee has been paid at the time of the declaration of candidacy in another county. The county elections official shall transmit the appropriate fees to the Secretary of State at the time he or she delivers the declarations of candidacy for filing. **All filing fees received by the Secretary of State and county elections officials are nonrefundable.**

(Emphasis added)

As to your additional demands, California Constitution article II, section 17 confers on the Lieutenant Governor the authority to proclaim an election date in a manner consistent with article II, section 15 of the California Constitution. Article II, section 15 establishes the dates during which a recall election shall be called. Accordingly, we must also decline your additional demands.

Regards,

Steve Reyes
Chief Counsel

Steve Reyes
Chief Counsel
California Secretary of State

<https://mail.google.com/mail/u/0/?ik=3e642f6c27&view=pl&search=all&permmsgid=msg-f:11705293448964191297&siml=msg-f:11705293448964191297> 1/2

Qualifications & Filing Requirements for Replacement Candidates What is the deadline for filing as a replacement candidate in the Governor's recall? The deadline to file as a replacement candidate is contingent upon the election date included in a recall election **proclamation issued by the Lieutenant Governor.** The deadline for the California Gubernatorial Recall Election was July 16, 2021. Can Governor Newsom, who is the target of a recall effort, run as a replacement candidate? <https://www.sos.ca.gov/elections/prior-elections/statewide-election-results/2021-ca-gov-recall/newsom-recall-faqs> March 16, 2024

A replacement candidate must: File with the county elections official, in which the candidate is registered to vote, the following: A Declaration of Candidacy, and Nomination Papers, with 65 to 100 valid nomination signatures. Pay a filing fee of \$4,194.94 to the county elections official at the time the candidate obtains their Declaration of Candidacy and nomination papers. A candidate may choose to submit a minimum of 7,000 valid signatures on petitions in lieu of the filing fee.

Who can run as a replacement candidate? A replacement candidate must meet legal qualifications and requirements to run for the office of Governor. A candidate must: be a U.S. citizen; be a California registered voter and otherwise qualified to vote for that office at the time nomination papers are issued; not have been convicted of a felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes; and not have served two terms in the office since November 6, 1990. (Cal. Const., art V, § 2; Elec. Code, §§ 20, 201)

California Code, Government Code - GOV § 12172.5

(b) If, at any time, the Secretary of State concludes that state election laws are not being enforced, the Secretary of State shall call the violation to the attention of the district attorney of the county or to the Attorney General. In these instances, the Secretary of State may assist the county elections officer in discharging the officer's duties. (c) In order to determine whether an elections law violation has occurred, the Secretary of State may examine voted, unvoted, spoiled, and canceled ballots, vote-counting computer programs, vote by mail ballot envelopes and applications, and supplies referred to in Section 14432 of the Elections Code. The Secretary of State may also examine any other records of elections officials as the Secretary of State finds necessary in making a determination under this subdivision, subject to the restrictions set forth in Article 2 (commencing with Section 7924.100) of Chapter 2 of Part 5 of Division 10 of Title 1.

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=12172.5.&lawCode=GOV

THIS COURT SHOULD CONSIDER GRANTING CERTIORARI

Due to the national importance of the issues of free and fair elections and to uphold the rule of law, this Court may also wish to deem this application as a petition for certiorari on the critical questions of the rule of law and to rectify the split within the Ninth Circuit itself on the issue and question of the mootness of the 2021 gubernatorial recall election. Furthermore, to make a ruling on the constitutionality of the void ab initio laws California Governor Gavin Newsom enacted without constitutional authority to finance his own recall election with misappropriated funds from the U.S. Treasury and the California State Treasury. Gordon requests that this Court grant review and expedite briefing and argument so that this case can be heard this Term.

CONCLUSION

For the foregoing reasons, Appellant's Emergency Application For Stay Pending Petition for Writ of Certiorari of the United States Court of Appeals for the Ninth Circuit's Order/ Judgment/ Mandate and should be granted.

April 2, 2024



CARL GORDON
Self-represented litigant
University of the 'Hood®
8306 Wilshire Blvd., No.792
Beverly Hills, Ca 90211
Tel. (310) 926-3939
universityofthehood@gmail.com
Applicant/Plaintiff
Pro se litigant Carl Gordon

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

CARL GORDON, — APPLICANT

VS.

GAVIN NEWSOM, ET AL., — RESPONDENT(S)

PROOF OF SERVICE

I, Mae Gordon, do swear or declare that on this date,

EMERGENCY APPLICATION FOR STAY PENDING PETITION

April 2/5 2024, as required by Supreme Court

Rule 29 have served the enclosed on each party to the above proceeding or that party's counsel, and on every other person required to be served, 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.

The names and addresses of those served are as follows:

Natasha Saggar Sheth, Deputy Attorney General
Paul Stein, Supervising Deputy Attorney General,
Thomas Stuart Patterson, Senior Assistant Attorney General
455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004
Attorneys for Respondents Gavin Newsom, et al.

Courtesy copy to be sent via email.
Natasha.Sheth@doj.ca.gov
Paul.Stein@doj.ca.gov
thomas.patterson@doj.ca.gov
Courtesy copy to be filed with the
Ninth Circuit. Appeal Docket No.
22-55640

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

correct. Executed on April 2/5, 2024



(Signature)

**Additional material
from this filing is
available in the
Clerk's Office.**