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Logan, in his official capacity as the
8 County of Los Angeles Registrar-
Recorder/County Clerk

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SACRAMENTO**

12 ELECTION INTEGRITY PROJECT
13 CALIFORNIA, INC.; LARRY
LEWIS, an individual; COLETTE
14 CASEY, an individual; ELLEN
SWENSEN, an individual; THOMAS
15 D. PAVICH, an individual; and
CHARLES SHINN, an individual,

16
17 Petitioners,

18
19 v.

20 SHIRLEY WEBER, CALIFORNIA
SECRETARY OF STATE; BOB
PAGE, ORANGE COUNTY
21 REGISTRAR OF VOTERS; DEAN
LOGAN, LOS ANGELES COUNTY
REGISTRAR-RECORDER/COUNTY
22 CLERK; ART TINOCO, RIVERSIDE
COUNTY REGISTRAR OF VOTERS;
AIMEE X. EXPINOZA, KERN
23 COUNTY AUDITOR-
CONTROLLER-COUNTY CLERK;
24 and MICHELLE BALDWIN,
TULARE COUNTY REGISTRAR OF
25 VOTERS,

26
27 Respondents.

CASE NO. 24WM000168

**RESPONDENT COUNTY OF LOS
ANGELES REGISTRAR-
RECORDER/COUNTY CLERK DEAN C.
LOGAN'S OPPOSITION TO EX PARTE
APPLICATION FOR ORDER
SHORTENING TIME**

Assigned to the Hon. Shelleyanne W.L.
Chang, Dept. 21

Action Filed: 10/30/2024

1 Respondent Dean C. Logan, in his official capacity as the County of Los Angeles
2 Registrar-Recorder/County Clerk ("LA County Registrar" or "LA County"), hereby submits his
3 memorandum of points and authorities in opposition to Petitioners Election Integrity Project
4 California, Inc., Larry Lewis, Colette Casey, Ellen Swensen, Thomas D. Pavich and Charles Shinn
5 (collectively, "Petitioners") Ex Parte Application for Order Shortening Time ("Application").

6 **MEMORANDUM OF POINTS AND AUTHORITIES**

7 **I. INTRODUCTION**

8 The Court should deny Petitioners' Application to set a shortened briefing schedule and
9 hearing on the merits on Petitioners' Verified Petition for Peremptory Writ of Mandate
10 ("Petition"), and for a decision on the merits to be rendered by the Court before December 5, 2024
11 on the following grounds:

- 12 • There is no good cause to warrant ex parte relief; the exigency of the matter is a fiction of
13 Petitioners' creation. As the Court noted in denying Petitioners' request for hearing on
14 October 31st, Petitioners failed to diligently file this lawsuit despite possessing the alleged
15 data at issue for over four months and have offered no good explanation for the delay.
- 16 • Petitioners failed to demonstrate irreparable harm—Petitioners' allegations of differences
17 in the data provided by respondent Shirley Weber in her capacity as the California
18 Secretary of State ("SOS") are solely from the November 2022 election and involve
19 communications entirely between representatives of petitioner Election Integrity
20 California, Inc. ("EIPCa") and the SOS. Any irreparable harm alleged is purely
21 speculative as to LA County and lacks causal nexus to justify relief. The LA County
22 Registrar maintains he has complied with all ministerial and statutory duties under law as
23 the elections official for LA County in the November 2022 and the November 5, 2024
24 General Election ("Election"), and Petitioners have failed to make any credible showing to
25 suggest otherwise.
- 26 • Ex parte relief in Petitioners' favor would result in substantial prejudice and harm to LA
27 County and voters who voted in the Election. It would substantially interfere with LA
28 County's ability to complete the statutorily required activities for the official canvass and to

1 timely certify the results of the Election. The appointment of a special master during this
2 period—a most extreme and intrusive remedy—would result in massive disruption to
3 ongoing post-election canvass activities, almost certainly guaranteeing delay in the
4 completion of the official canvass and certification of Election results, as well as voter
5 uncertainty and mistrust.

- 6 • The relief sought is improper and infeasible—Petitioners failed to provide the underlying
7 SOS data upon which their case is allegedly premised but expect county respondents to
8 address the merits based on Petitioners' presentation of a subset of data and for the Court to
9 hear the matter and render a decision with approximately two weeks' time prior to
10 certification.

11 Importantly, the Petition's allegations are so detrimentally vague and lacking that LA
12 County would not be able to substantively respond to the Petition without more information and
13 specificity. As the Petition stands, there are no factual allegations that connect the County to any
14 wrongdoing, and the Petition is subject to demurrer on numerous grounds. LA County also
15 reserves the right to seek discovery, if necessary, in order to adequately defend itself if this lawsuit
16 is allowed to proceed.

17 Due to the limited time allowed for filing this opposition, LA County is still reviewing
18 whether venue is proper in Sacramento County and reserves the right to seek a change of venue or
19 other appropriate relief. However, to the extent this is not a pre-election writ and Petitioners are
20 not seeking to prevent any error or omission, or any neglect of duty in the printing of election
21 materials, Elec. Code § 13314 should not apply to provide any basis for relief.

22 **II. STATEMENT OF RELEVANT FACTS AND PROCEDURAL HISTORY**

23 Following the November 2022 General Election, SOS published the "Statement of Vote"
24 which showed that 11,146,620 total voters participated in that election. (Petition ("Pet."), ¶ 28.)
25 On February 27, 2024, EIPCa submitted to the SOS a request for the statewide "voter list or file,"
26 by precinct, of all persons who voted in the November 2022 election. (Pet., ¶ 24.) On June 28,
27 2024, EIPCa received voter history and voter information files of those who voted in the
28 November 2022 election from the SOS. (Pet., ¶ 25.) The June 2024 data showed 11,190,244

1 voters, or 43,624 more voters than in the SoS' November 2022 reported data. (Pet., ¶ 28.) After
2 reviewing and identifying differences between the reported data and the data received from the
3 SOS in June 2024, on September 6, 2024, EIPCa sent written questions to the SOS regarding the
4 discrepancies. (Pet., ¶ 38.) The SOS did not respond to the September 6th letter or follow-up
5 attempts. (Pet., ¶¶ 38-40.) At no point did EIPCa reach out to LA County to seek clarity on the
6 data differences or inquire at all about the SOS data.

7 On October 31, 2024, five days into the early in-person voting period in the Election¹,
8 Petitioners filed their Petition. Among other relief requested, Petitioners sought to have the Court
9 immediately hold a hearing on the merits and issue orders on the Petition by November 6, 2024.
10 On October 31, 2024, the Court issued an order denying Petitioners' request. Notably, the Court
11 found Petitioners failed to offer any evidence as to their diligence in bringing this matter to the
12 Court after receiving the data at issue over four months prior to filing. On November 5, 2024, the
13 day of the Election, Petitioners filed their Application to set a shortened briefing schedule and
14 merits hearing on the Petition, and for a decision to be rendered by the Court before December 5,
15 2024.

16 Since Election night (after 8 pm), the LA County Registrar has tabulating votes for the
17 Election pursuant to Elec. Code § 15101. The official canvass for the Election commenced on
18 November 7, 2024, and has continued daily, in accordance with Elec. Code § 15301. Official
19 canvass and post-election activities include, but are not limited to, the processing of vote by mail
20 ballots, provisional ballots, and ballots from voters who registered and voted conditionally, curing
21 of ballots, remaking of ballots, adjudication of ballots, and conducting required post-election
22 auditing activity. *See* Elec. Code § 15300 et seq. Pursuant to Assembly Bill ("AB") 3184,
23 elections officials are prohibited from certifying the results of the November 2024 Election prior
24 to the 28th day following the Election (December 3), and are required to accept vote by mail ballot
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28 ¹ LA County conducts elections pursuant to the Voter's Choice Act (Elec. Code § 4005 et seq.),
with early in-person voting at vote centers starting on October 26, 2024 in the Election.

1 cure letters until 26 days following the Election (December 1, 2024 at 5:00 pm).² See Elec. Code
2 §§ 15391, 15392.

3 **III. LAW AND ARGUMENT**

4 **A. Legal Standard**

5 "A court will not grant ex parte relief 'in any but the plainest and most certain of cases.'"
6 *Newsom v. Sup. Ct. of Sutter Cnty.* (2020) 51 Cal.App.5th 1093, 1097, citing *People ex rel. Allstate*
7 *Ins. Co. v. Suh* (2019) 37 Cal.App.5th 253, 257. Substantively, "[a]n applicant must make an
8 affirmative factual showing in a declaration containing competent testimony based on personal
9 knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief
10 ex parte." (Cal. Rules of Court, rule 3.1202(c); see also Code Civ. Proc., § 527.) "A trial court
11 should deny an ex parte application absent the requisite showing." (*Newsom v. Sup. Ct. of Sutter*
12 *Cnty.*, 51 Cal.App.5th at 1097-1098; *People ex rel. Allstate Ins. Co.*, 27 Cal.App.5th at p. 257.) In
13 this case, Petitioners failed to make the requisite showing of good cause and irreparable harm to
14 obtain any ex parte relief. In fact, granting any relief on the Application would result in
15 substantial harm and prejudice to LA County, and could result in delaying the certification of the
16 Election to the detriment of voters in LA County and the State.

17 **B. There is a Lack of Good Cause to Warrant Any Relief; Petitioners Have Acted**
18 **With Unreasonably Delay.**

19 "It is well settled that laches is established by showing unreasonable delay in bringing the
20 action and prejudice to defendant resulting from this delay." *Finnie v. Town of Tiburon* (1988)
21 199 Cal.App.3d 1, 14; see also *Vela v. Huberty* (1934) 1 Cal.2d.466, 467-468. As the Court noted
22 in the order issued on October 31, 2024, Petitioners failed to demonstrate diligence in pursuing
23 this matter when the data at issue was received over four months prior to filing. Petitioners could
24 have filed their action as early as July after receiving the data from SOS and discovering the
25 alleged differences with the officially reported "Statement of Vote" data from the November 2022

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28 ² The full text of AB 3184 is available at:
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB3184

1 election. Even under the most generous view of the record, Petitioners should have filed their
2 action in September 2024, after the SOS allegedly failed to respond to their correspondence.
3 Petitioners nonetheless chose to sit on their rights, and filed their Petition only days before
4 Election Day and halfway into the early in-person voting period. Although Petitioners' counsel
5 offers that their firm was not formally retained until October, that does not excuse Petitioners' lack
6 of diligence or failure to act sooner. As addressed in Section III.D. below, LA County would
7 moreover suffer substantial harm and prejudice if any ex parte relief were granted.

8 Accordingly, laches apply to bar Petitioners from obtaining any ex parte relief.

9 **C. Petitioners Have Demonstrated No Irreparable Harm.**

10 Petitioners failed to put forth any competent showing of irreparable harm because the
11 allegations do not establish any causal nexus as to LA County as a threshold matter. The Petition
12 is premised on alleged differences in data from November 2022 election that the SOS reported and
13 provided to EIPCa, and the SOS' failure to respond to Petitioners' inquiries. This data was not
14 provided by LA County and does not pertain to the November 2024 election.³ LA County also
15 did not have any prior contact or communication with Petitioners regarding the alleged data
16 request and discrepancies. There is no allegation or showing in the Petition that connects LA
17 County to the alleged data differences or the alleged failure by the SOS to respond to inquiries.
18 Although Petitioners attempt to bootstrap these allegations to leap to the conclusion that county
19 respondents including LA County must have "violated [their ministerial] duties by failing to
20 reconcile the number of signatures on the roster with the number of ballots recorded on the ballot
21 statements" (Pet., ¶ 98), these allegations are speculative and do not add up. Furthermore, there is
22 no factual allegation or showing made in the Petition and Application that ties LA County to any

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26 ³ Petitioners appear to have erroneously or intentionally conflated different terms and sets of data
27 derived from complex databases, e.g., mixing or equating "voter history" data with "votes cast"
28 data to allege their case. Such data are not the same. The voter database maintained by the SOS is
a dynamic database that periodically synchronizes with county voter databases and constantly
updates and fluctuates as new events occur in the voters' records, e.g., moving to a different
County or country, marriage, death or incapacity.

1 error in conducting canvass activities and certifying LA County's results for the November 2022
2 election or the November 2024 Election.

3 **D. Granting Any Ex Parte Relief Would Result in Substantial Harm and**
4 **Prejudice to LA County and its Voters.**

5 Granting ex parte relief in Petitioners' favor would result in substantial interference with
6 LA County's ability to complete the statutorily required activities for the official canvass and
7 timely certification of the Election results. As the most populous and complex local jurisdiction in
8 the nation with over 5.6 million registered voters in 88 cities and unincorporated areas, the LA
9 County Registrar has to process and tabulate millions of ballots in the Election. For reference, in
10 the 2020 November General Election, there were over 4.3 million ballots cast.⁴ See Request for
11 Judicial Notice, Exh. 1. At the time of this filing, the LA County Registrar is approximately two
12 weeks out from completing the official canvass, post-election auditing, and certifying the results
13 of the Election, with post-election activities to continue until 5:00 pm on December 1 and
14 certification to occur on December 3 at the earliest. Such activities are crucial to allow elected
15 officials to assume their offices in early December and represent the voters who elected them to
16 office. This process is designed to ensure a smooth transition of power, provide voters with
17 certainty as to the finality of the Election, and ensure the integrity of our democratic form of
18 government. Similarly, the appointment of a special master to oversee the LA County Registrar's
19 election duties and the accompanying diversion of key personnel and resources would almost
20 certainly result in massive disruption to established canvass processes and workflows,
21 exponentially increasing the likelihood of delay in the completion of canvass and the certification
22 of the Election results.

23 Petitioners also failed to attach any of the June 2024 data from SOS and other relevant
24 correspondence from SOS to any of their filings. LA County is therefore without sufficient
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27 ⁴ The LA County Registrar's Certificate of Canvass of the Election Returns for the November 3,
28 2020 General Election is available at: <https://file.lacounty.gov/SDSInter/bos/supdocs/150947.pdf>.
At page 9, the Final Official Canvass Election Returns shows there were a total of 4,338,191
ballots cast in the election.

1 information to substantively respond to the allegations in the lawsuit and would be greatly
2 prejudiced and harmed if it were required to substantively respond to the Petition on a shortened
3 briefing schedule (while at the same time still working to complete the official canvass and other
4 post-election activities).

5 **IV. CONCLUSION**

6 For the foregoing reasons, respondent LA County respectfully request the denial of the
7 Application.

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9 DATED: November 14, 2024

Respectfully submitted,

10 DAWYN R. HARRISON
11 County Counsel

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13 By 
14 EVA W. CHU
15 Senior Deputy County Counsel

16 Attorneys for Respondent Dean C. Logan, in his
17 official capacity as the County of Los Angeles
18 Registrar-Recorder/County Clerk

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2 **PROOF OF SERVICE**
3 Case No. 24WM000168

4 STATE OF CALIFORNIA, County of Los Angeles:

5 Baron Kishimoto states: I am employed in the County of Los Angeles, State of California,
6 over the age of eighteen years and not a party to the within action. My business address is 648
7 Kenneth Hahn Hall of Administration, 500 West Temple Street, Los Angeles, California 90012-
8 2713

9 That on November 15, 2024, I served the attached:

10 RESPONDENT COUNTY OF LOS ANGELES REGISTRAR-
11 RECORDER/COUNTY CLERK DEAN C. LOGAN'S OPPOSITION TO EX
12 PARTE APPLICATION FOR ORDER SHORTENING TIME

13 upon Interested Party(ies) by placing the original a true e-copy thereof as an attachment to
14 an email addressed as follows as stated on the attached service list:

15 **By electronic service.** Based on a court order or an agreement of the parties to accept
16 service by electronic transmission, I caused the documents to be sent to the persons at the
17 electronic notification addresses listed on the service list.

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

20 Executed on November 15, 2024, at Los Angeles, California.

21 Baron Kishimoto
22 (NAME OF DECLARANT)

23 *Baron Kishimoto*
24 (SIGNATURE OF DECLARANT)

SERVICE LIST

<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p>	<p>ADVOCATE FOR FAITH & FREEDOM 25026 Las Brisas Road Murrieta, California 92562 Robert H. Tyler btyler@faith-freedom.com Julianne Fleischer jfleischer@faith-freedom.com</p> <p>TYLER LAW, LLP 25026 Las Brisas Road Murrieta, California 92562 Emma F. Plotnik eplotnik@tylerlawllp.com</p>	<p><i>Attorneys for Petitioners</i> Election Integrity Project California, Inc., Larry Lewis, Colette Casey, Ellen Swensen, Thomas D. Pavich, and Charles Shinn</p>
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