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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SACRAMENTO**

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

Petitioners, )

v. )

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

Respondents. )

**Case No. 24WM000168**

*Assigned for All Purposes to: Honorable Judge  
Shelleyanne W.L. Chang – Dept 21*

**RESPONDENTS ART TINOCO, COUNTY  
OF RIVERSIDE REGISTRAR OF VOTERS  
OPPOSITION TO PETITIONERS EX  
PARTE APPLICATION FOR AN ORDER  
SHORTENING TIME**

**Date: TBD  
Time: TBD  
Dept: 21**

*Petition Filed: October 30, 2024*

**TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:**

Respondent, Art Tinoco, Riverside County Registrar of Voters (“Riverside”) hereby submits this  
Opposition to Petitioners’ Ex Parte Application for Order Shortening Time.

Riverside objects to the request for an Order shortening time on the grounds that: (1) as previously

1 ruled by the Court, Petitioners have manufactured their own emergency by delaying until *six calendar days*  
2 *prior* to the November 5, 2024 general election to file the instant Petition, despite having the underlying  
3 information approximately *four months prior* to filing and having retained counsel a month prior; with the  
4 Court denying a hearing prior to Election Day and setting a hearing in February of 2025, Petitioners’ self-  
5 made urgency has evaporated; (2) Petitioners have not shown and cannot show irreparable harm because  
6 other remedies are available; (3) Petitioners have not shown good cause to shorten time as to Riverside; and  
7 (4) where at least Riverside intends to file a demurrer under Code of Civil Procedure section 430.10,  
8 subsections (d), (e), and (f), Riverside—and other Respondent counties—should have at least statutory time  
9 to respond. Indeed, Code of Civil Procedure section 430.41 requires any party contemplating the filing of  
10 a demurrer must meet and confer prior to filing any papers.

11 Ultimately, Petitioners manufactured their own exigency. Other statutory remedies exist. They  
12 have presented no good cause for *ex parte* relief where the “evidence” in support of the application is the  
13 same “evidence” presented in support of the Petition, none of which raises a question of impropriety by  
14 Riverside Registrar of Voters, Art Tinoco—hence why the current Petition is subject to demurrer.  
15 Moreover, certification of the general election will occur December 5, 2024 for Riverside, making  
16 Petitioners’ requested relief moot. The application should be denied.

## 17 I. ARGUMENT

### 18 a. Standard for *Ex Parte* Relief

19 California Rules of Court, Rule 3.1200, *et seq.* sets out the requirements for an *ex parte* application  
20 for relief. A petition must make a sufficient factual showing for the requested relief. (Cal. R. Court, R.  
21 3.1201, 3.1202(c)). A petition must show, via “competent testimony based on personal knowledge  
22 irreparable harm, immediate danger, or any other statutory basis for granting relief *ex parte*.” (Cal. R. Court,  
23 R. 3.1202(c)). A court will not grant *ex parte* relief except in “the plainest and most certain of cases.”  
24 (*People ex rel. Allstate Ins. Co. v. Suh* (2019) 37 Cal.App.5th 253, 257 (“*Allstate*”), quoting *Consolidated*  
25 *Const. Co. v. Pac. E. Ry. Co.* (1920) 184 Cal.244, 246). A trial court should deny an *ex parte* application  
26 absent the requisite showing. (*Allstate*, *supra*, 37 Cal.App.5th at 257; see also *Ferraro v. Camarlinghi*  
27 (2008) 161 Cal.App.4th 509, 523, 551, fn. 30).

1                   **b. Petitioners Manufactured Their Own Emergency**

2                   As the Court’s initial Order denying Petitioners’ request for immediate resolution noted, Petitioners  
3 waited until just before Election Day to seek Court intervention: “Petitioners have requested that the Court  
4 set this matter for a hearing on the merits, with an ‘act on’ date of four court days from the date of this  
5 minute order, November 6, 2024.” In fact, “Petitioners did not initiate the present litigation until late  
6 afternoon October 30, 2024, and first requested a hearing [the] morning [of] October 31, 2024.” Despite  
7 the unprecedented request to “appoint a special master to oversee Respondents in performing their  
8 ministerial duties in recordkeeping, canvassing, reporting, compiling, and accurate certification of the  
9 election results for the November 5, 2024 election,” Petitioners “have not offered any evidence as to their  
10 diligence in bringing this matter before the Court after receiving the information over four months ago.”  
11 Moreover, Petitioners’ own counsel acknowledged that Petitioners retained counsel on September 26, 2024,  
12 “almost a month prior to the filing of this litigation, after having taken substantial time to review the June  
13 2024 [A]ccounting.”<sup>1</sup> Indeed, the Court did “not find any evidence in the numerous declarations explaining  
14 why this petition could not have been filed earlier before now.” Accordingly, the Court denied Petitioners’  
15 request for a hearing on the merits that differ[ed] from the Court’s Local Rule 2.26, requiring notice and an  
16 opening memorandum of points and authorities to be filed and served at least 45 days prior to the hearing  
17 date.”

18                   Despite such a crystal-clear order, Petitioners persist in their efforts to rush through the instant  
19 Petition via a request to shorten time to December 5, 2024—just over two weeks away. Petitioners present  
20 no additional information to justify shortened time and the attendant curtailment of Riverside’s due process  
21 rights. Where Petitioners fail to demonstrate any risk of “immediate danger,” the application should be  
22 denied.

23                   **c. Petitioners Fail to Show Irreparable Harm.**

24                   Petitioners base their Petition (and the *ex parte* application) on Elections Code section 13314, which  
25 is a pre-election challenge for specific and discrete issues: an error or omission occurred or is about to  
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27 \_\_\_\_\_  
28 <sup>1</sup> Petitioners now claim that this statement was made in error and that counsel was retained “as quickly as practicable,” despite the fact that counsel for Petitioners all work in the same office.

1 occur in (1) placing a name on a ballot; (2) printing of a ballot; (3) printing of a sample ballot; (4) printing  
2 of the voter pamphlet; (5) printing of some “other official matter;” or (6) “neglect of duty.” (*McKinney v.*  
3 *Superior Court (City of San Diego)* (2004) 124 Cal.App.4th 951, 957; Cal. Elections Code § 13314(a)(1)).  
4 In trying to ascertain what Petitioners attempt to allege, two main issues become somewhat clear: (1)  
5 Petitioners want answers to their questions posed to the Secretary of State; and (2) the Secretary of State’s  
6 reporting of election results from the November 2022 election and as allegedly produced in June of 2024,  
7 do not match. Neither allegation shows any connection to Riverside (or any other county Registrar of  
8 Voters), yet boldly asserts that a special master is required to oversee Riverside’s election *which is already*  
9 *in the official canvass period.* **None of the purported facts support any cause of action arising under**  
10 **Elections Code section 13314.**

11 Moreover, Petitioners have other remedies available to observe and challenge the processing of the  
12 current election, namely: observation of the canvass process; review the preparation and operation of  
13 tabulating devices; and review and observation of activities at the central counting location facilities  
14 (Registrar of Voters building). (See Elections Code §§ 20873; 15004, 15104, 15301, 15204, 15360, and  
15 15629). Should Petitioners observe any irregularities or cause for concern that may lead to an incorrect  
16 vote count, then Petitioners can file a post-election challenge under Elections Code section 16100—more  
17 specifically Subsection (d) [“illegal votes were cast”], Subsection (f) [errors sufficient to change the result  
18 of the election as to any person who was declared elected were made], and/or Subsection (g) [“there was an  
19 error in the vote-counting programs or summation of ballot counts.”]. Since other remedies are available,  
20 Petitioners cannot, as a matter of law, show irreparable harm. Thus, the application should be denied.

21 **d. Petitioners Do Not Show Good Cause as to Riverside**

22 Despite an impressive amount of paperwork, nothing in Petitioners’ filing shows good cause *as to*  
23 *Riverside*. Yes, an action brought under Elections Code section 13314 is entitled to priority per Subsection  
24 (a)(3). But Section 13314 does not apply in this case, as shown above. Further, Petitioners allege a vote  
25 count difference (of the Secretary of State’s purported numbers and productions) of 4,282 (0.7%). (See  
26 Declaration of Ellen Swensen, ¶ 12; Ex. 6, p. 1). There are no allegations that the purported discrepancy is  
27 *because of* any error or omission of Riverside. Indeed, Petitioners do not even preclude the idea that the  
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1 discrepancy—assuming it exists—cannot otherwise be accounted for by human error or some other benign  
2 reason. Effectively, Petitioners allege “the numbers do not match, therefore fraud,” without actually saying  
3 what the alleged fraud/error/omission was that supposedly underlies the numbers reported initially and in  
4 June of 2024, nor that whatever occurred then is imminently likely to occur now. Without more, the parties  
5 and the Court are left to wonder what it is that Petitioners claim went wrong and what should be done about  
6 it moving forward. In other words, the issues should be briefed on the merits, on regular notice. Where  
7 Petitioners’ application falls well below any reasonable interpretation of the good cause requirement for *ex*  
8 *parte* relief, the application should be denied.

9 **e. Riverside Intends to File a Demurrer to the Petition**

10 Given the vague and confusing allegations against it, Riverside intends to file a demurrer under  
11 Code of Civil Procedure sections 430.10(d), (e), and (f). First, to the extent the Petition focuses almost  
12 exclusively on information provided—vote information in November of 2022 and in June of 2024 regarding  
13 the same election—and not provided—alleged failure to answer questions—by the Secretary of State, the  
14 Petition appears to have incorrectly joined Riverside as a party. (Cal. Civ. Proc. Code § 430.10(d)). Second,  
15 and similarly, the Petition does not state any facts sufficient to constitute a cause of action against Riverside.  
16 No specific allegations under Elections Code section 13314 have been made, and no other potential liability  
17 can be determined from the overstuffed papers. Third, the papers are woefully uncertain as to what  
18 Riverside allegedly did (or failed to do) that needs Court intervention to correct. Accordingly, Riverside  
19 should not be precluded from challenging the sufficiency of the Petition as pleaded before being forced to  
20 respond on the merits. Should the Court grant the application, the due process rights of Riverside (and  
21 potentially other counties) would be violated.

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1 **PROOF OF SERVICE**

2 **Superior Court Case No. 24WM000168**

3 I, the undersigned, say that I am a citizen of the United States and am employed in the county of  
4 Riverside, over the age of 18 years and not a party to the within action or proceeding; that my business  
address is: 3960 Orange Street, Suite 500, Riverside, CA 92501-3611.

5 That on November 15, 2024, I served a copy of the following listed documents:

6 **RESPONDENTS ART TINOCO, COUNTY OF RIVERSIDE REGISTRAR OF VOTERS**  
7 **OPPOSITION TO PETITIONERS EX PARTE APPLICATION FOR AN ORDER SHORTENING**  
8 **TIME**

9 by delivering a true copy thereof in a sealed envelope(s) addressed as follows:

10 Emma Plotnik, Attorney Susan Kenney, Attorney TYLER LAW, LLP. 25026 Las Brisas Road Murrieta, CA 92562 12 T: (951) 600-2733 F: (951) 600-4996 13 E: <a href="mailto:eplotnik@tylerlawllp.com">eplotnik@tylerlawllp.com</a> E: <a href="mailto:skenny@tylerlawllp.com">skenny@tylerlawllp.com</a>	Attorneys for Petitioners Election Integrity Project California, Inc., et al.
15 Robert H. Tyler, Attorney Julianne Fleischer, Attorney Advocates for Faith & Freedom 25026 Las Brisas Road Murrieta, CA 92562 17 T: (951) 600-2733 F: (951) 600-4996 18 E: <a href="mailto:bt Tyler@faith-freedom.com">bt Tyler@faith-freedom.com</a> E: <a href="mailto:jfleischer@faith-freedom.com">j fleischer@faith-freedom.com</a>	Attorneys for Petitioners Election Integrity Project California, Inc., et al.
20 John D. Echeverria Malcolm Brudigam Maria Buxton CCAG Office of the Attorney General <a href="mailto:john.echeverria@doj.ca.gov">john.echeverria@doj.ca.gov</a> 22 <a href="mailto:Malcolm.brudigam@doj.ca.gov">Malcolm.brudigam@doj.ca.gov</a> <a href="mailto:maria.buxton@doj.ca.gov">maria.buxton@doj.ca.gov</a>	Attorneys for Shirley Weber California Secretary of State
24 Rebecca S. Leeds Suzanne Shoai County of Orange County Counsel 400 W. Civic Center Drive, Suite 202 Santa Ana, CA 92701 26 <a href="mailto:Rebecca.leeds@coco.ocgov.com">Rebecca.leeds@coco.ocgov.com</a> <a href="mailto:suzy.shoai@coco.ocgov.com">suzy.shoai@coco.ocgov.com</a>	Attorneys for Bob Page Orange County Registrar of Voters

<p>Adam Baumgarten Eva Chu Office of County Counsel – Los Angeles 500 W. Temple Street, Suite 648 Los Angeles, CA 90012 T: (213) 974-1811 T: (213) 443-0461 <a href="mailto:abaumgarten@counsel.lacounty.gov">abaumgarten@counsel.lacounty.gov</a> <a href="mailto:echu@counsel.lacounty.gov">echu@counsel.lacounty.gov</a></p>	<p>Attorneys for Dean Logan Los Angeles County Registrar-Recorder/County Clerk</p>
<p>Scott Fontes Office of County Counsel, Kern County 1115 Truxtun Avenue, 4<sup>th</sup> Floor Bakersfield, CA 93301 T: (661) 868-3836 F: (661) 868-3805 <a href="mailto:sfontes@kerncounty.com">sfontes@kerncounty.com</a></p>	<p>Attorneys for Aimee X. Expinoza Kern County Auditor-Controller-County Clerk</p>
<p>Amy I. Terrible (Myers) Kari A. Martin-Higgins Tulare County Registrar of Voters Clerk of the Board of Supervisors 2900 West Burrel Avenue Visalia, CA 93291 T: (559) 66-4950 F: (559) 615-3037 E: <a href="mailto:amyers1@tularecounty.ca.gov">amyers1@tularecounty.ca.gov</a> E: <a href="mailto:kmartin1@tularecounty.ca.gov">kmartin1@tularecounty.ca.gov</a></p>	<p>Attorneys for Tulare County Registrar of Voters Clerk of the Board of Supervisors</p>

- FIRST CLASS MAIL. I am “readily familiar” with this office’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U. S. Postal Service on that same day with postage thereon fully prepaid at Riverside, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- OVERNIGHT MAIL. I am “readily familiar” with this office’s practice of collection and processing correspondence for overnight mailing. Under that practice, it would be deposited in a box or facility regularly maintained by the express service carrier in an envelope or package designated by the express service carrier in the ordinary course of business.
- ELECTRONIC SERVICE. Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

Executed on November 15, 2024, at Riverside, California.

/s/ Bianca Ruiz  
BIANCA RUIZ