

1 for “a voter list or file, by precinct, of all persons who voted” in the November 8, 2022, General
2 Election with the California Secretary of State (“Secretary”), pursuant to Elections Code section
3 2191(a). (Declaration of Linda Paine (“Paine Decl.”), ¶ 4; Declaration of Carl Knowles (“Knowles
4 Decl”), ¶ 7.) Through its data request, EIPCa sought the data that Respondents used to prepare the
5 Statement of Vote and underlying Voter Participation Statistics by County (“November 2022 Voter
6 Participation Statistics”) and to certify the November 8, 2022, General Election results. Declaration
7 of Ellen Swensen (“Swensen Decl.”), ¶ 8; Paine Decl.”, ¶ 4.)

8 3. The Secretary’s office sent EIPCa non-responsive data on several occasions,
9 delaying EIPCa’s ability to conduct the audit. (Declaration of Carl Knowles in Support of Petition
10 (“Knowles Decl”), ¶ 8.) EIPCa received the requested data on or about June 28, 2024. (*Id.* at ¶ 6.)
11 EIPCa refers to the data received from the Secretary on or about June 28, 2024, pursuant to its
12 request under Elections Code section 2191(a) and used to complete its audit as the “June 2024
13 Accounting.”

14 4. While EIPCa expected that the June 2024 Accounting would match the November
15 2022 Voter Participation Statistics and that such data would represent the statewide number of voters
16 with counted or accepted ballots as of the date the Secretary certified the vote, EIPCa’s data analysts
17 determined that there were numerous discrepancies between the EIPCa’s June 2024 Accounting and
18 the November 2022 Voter Participation Statistics. (Swensen Decl., ¶ 8.) For example, EIPCa’s data
19 analysts found a net difference of 43,624 total ballots statewide between the November 2022 Voter
20 Participation Statistics and the June 2024 Accounting. (*Id.* at ¶ 10.) In Los Angeles County alone,
21 there was a discrepancy of 49,777 total ballots between the November 8, 2022, Voter Participation
22 Statistics and the June 2024 Accounting. (*Id.* at ¶ 11.)

23 5. Moreover, the analysts found issues with duplicate ballots¹, or multiple ballots that
24 were attributable to a single voter registration ID. (*Id.* at ¶ 12.) The audit revealed 42,769 ballots
25 statewide that were attributable to 21,355 unique Registration ID numbers statewide. (*Id.*) In Los
26 Angeles County, there were 42,112 ballots that were attributable to 21,027 unique Registration ID

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28 ¹ “Duplicate ballots” are referred to as “multi-voter votes” in Exhibit 4 of the Declaration of Ellen Swensen in Support
of Verified First Amended Petition for Peremptory Writ of Mandate.

1 General has an office.” This action is instituted against the Secretary of State, a state agency. Thus,
2 the present action is properly commenced in, and may be tried in, Sacramento County, where the
3 Attorney General has an office. The joinder of Dean Logan as Registrar-Recorder/County Clerk is
4 proper under Code of Civil Procedure Section 379(a)(1), which provides that “All persons may be
5 joined in one action as defendants if there is asserted against them: (1) Any right to relief jointly,
6 severally, or in the alternative, in respect of or arising out of the same transaction, occurrence, or
7 series of transactions or occurrences and if any question of law or fact common to all these persons
8 will arise in the action.” (Code Civ. Proc. § 379(a)(1).) Here, the ministerial duties Petitioners seek
9 to enforce “aris[e] out of the same transaction, occurrence, or series of transactions or occurrences”
10 pertaining to the counting, canvassing, and certification of ballots in the November 8, 2022, and
11 November 5, 2024, elections. (*Id.*)

12 IV. STANDING

13 14. Petitioner EIPCa has associational standing under the public interest exception to the
14 beneficial interest requirement under California law because “the question is one of public right and
15 the object of the mandamus is to procure the enforcement of a public duty.” (*Loeber v. Lakeside*
16 *Joint School Dist.* (2024) 103 Cal.App.5th 552, 573-75.) By filing the present writ, EIPCa acts on
17 behalf of all California voters regarding the ‘broad [] public concern’ of ensuring transparent and
18 fair elections by requesting that Respondents fulfill their statutory obligations of accurately counting
19 and certifying ballots. (*Id.* at p. 576; NVRA 52 U.S. Code § 20501(b)(3)(4).)

20 15. Individual Petitioner Larry Lewis has standing to bring this writ as an “elector” under
21 Elections Code section 321, or “a person who is a United States citizen 18 years of age or older and
22 . . . is a resident of an election precinct in this state on or before the day of an election.” (Elec. Code
23 § 321(a).) Larry Lewis is a United States Citizen over the age of eighteen and is a resident of a
24 county for which an elections official is named as a Respondent. (Lewis Decl., ¶¶ 1, 3, 4.)

25 V. FACTUAL BACKGROUND

26 A. EIPCA’s Application For Voter List Or File To The Secretary

27 16. Collectively, Respondents are responsible for conducting elections, counting ballots,
28 and certifying election results, as set forth in greater detail below.

1 17. Petitioner EIPCa is a nonprofit 501(c)(3) public benefit corporation committed to
2 defending, through education, research, and advocacy the civil rights of United States citizens to
3 fully participate in the election process under Federal and state law. EIPCa provides grassroots
4 oversight to ensure the integrity of that part of the Republic through which citizens exercise their
5 most fundamental right – the right to choose their representatives by fair and honest elections. EIPCa
6 works to ensure that all ballots are lawfully cast and accurately counted. EIPCa is neither affiliated
7 with nor supportive of any political party or organization and its volunteers have diverse political
8 affiliations. EIPCa accomplishes its purpose in several different manners, including training citizens
9 to observe and document election procedures used to manage elections and process ballots,
10 communicating with elections officials, and by requesting and auditing election data. (Swensen
11 Decl., ¶ 4; Lewis Decl. ¶ 5; Paine Decl., ¶¶ 2-3.)

12 18. On February 27, 2024, EIPCa properly submitted an application to the California
13 Secretary of State for the “voter list or file” maintained by the election’s officials for each precinct
14 of all voters who voted in previous elections. (Elec. Code §§ 2191; Cal. Code Regs., tit. 2, § § 19001,
15 19003, 19008, 19009; Paine Decl., ¶ 4; Ex. 1; Swensen Decl., ¶ 6; Knowles Decl., ¶ 7.) The
16 application requested each voter’s name, address, birthdate, state Registration ID number, precinct,
17 voting method, and current registration status. (Swensen Decl., ¶ 6.) Essentially, the data sought was
18 the November 8, 2022, election data used by Respondents to prepare the Statement of Vote (and
19 specifically, the November 2022 Voter Participation Statistics) and in certifying the election both
20 by individual county and for the State of California. (*Id.*) The November 2022 Voter Participation
21 Statistics presents a record of all ballots purportedly counted in a given election. It is used as the
22 source of votes the Secretary of State certifies in each contest pursuant to the Statement of Vote.
23 (Swensen Decl., ¶ 6.)

24 19. The Secretary of State’s (“Secretary”) office sent EIPCa non-responsive data on
25 several occasions, delaying EIPCa’s ability to conduct the audit. (Declaration of Carl Knowles in
26 Support of Petition (“Knowles Decl”), ¶ 8.) After numerous emails and phone calls with the
27 Secretary of State’s office, EIPCa received the June 2024 Accounting, or the voter history and voter
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1 information files of those who voted in the November 2022 election. (Swensen Decl., ¶ 7; Knowles
2 Decl., ¶ 8; Ex. 6; Elec. Code § 359.2.)

3 **B. EIPCa’s Findings Regarding The June 5, 2024 Accounting And The November 2022**
4 **Voter Participation Statistics**

5 20. Upon receiving the raw data (consisting of over 34 million rows of plain text tab
6 delimited files) from the Secretary, Petitioner EIPCa conducted its audit of the data, comparing
7 information from the November 8, 2022, Voter Participation Statistics, on one hand, to the June
8 2024 Accounting, on the other. (Knowles Decl., ¶ 9; Sinor Decl., ¶ 9; Swensen Decl., ¶ 8.) The June
9 2024 Accounting is supposed to provide the data the Secretary relied on to determine the final
10 Statement of Vote (and the underlying November 2022 Voter Participation Statistics) and should
11 represent the statewide vote as of the date the Secretary of State certified the vote. (*See*, Cal. Code
12 Regs., tit. 2, § 19001 [providing that applications made for “voter registration information” in
13 compliance with Elections Code section 2194 entitle the applicant to “voting participation history,”
14 including an individual voter’s *election date*].) EIPCa reasonably believed the June 2024
15 Accounting would match the data used to prepare the November 2022 Voter Participation Statistics
16 because its data application was made for a “voter list or file by precinct, of all persons who voted”
17 in the previous November 2022 election. (Elec. Code § 2191.) This “voter list” is required to be
18 “updated by the elections official with public information related to who has voted in an election.”
19 (Elec. Code § 359.2.)

20 21. However, EIPCa found major discrepancies between the two data sets. (Swensen
21 Decl., ¶ ¶ 10-15; Exs. 4, 5.) In other words, the June 2024 Accounting proved to be substantially
22 different from the November 2022 Voter Participation Statistics, demonstrating serious
23 shortcomings by Respondents in performing their ministerial duties in certifying the November
24 2022 election. Petitioners believe the same results will be revealed in the November 2024 election
25 because of Respondents’ failure to properly account for ballots counted and to ensure that proper
26 measures were in place to perform their duties accurately.

27 22. The November 2022 Voter Participation Statistics accompanying the November
28 2022 Statement of Vote demonstrated that 11,146,620 total voters participated (their ballots were

1 counted) in California in the November 2022 election. (Swensen Decl., ¶ 10; Declaration of Emma
2 F. Plotnik (“Plotnik Decl.”), ¶¶ 4, 5; Request for Judicial Notice (“RJN”), Exs. 7, 8.) These Voter
3 Participation Statistics are central to the November 2022 election certification. However, the data
4 provided by Weber in EIPCa’s June 2024 Accounting showed 11,190,244 voters participated,
5 (43,624 more total ballots statewide) than listed in the November 2022 Voter Participation Statistics.
6 (Swensen Decl., ¶¶ 9-10; Ex. 4.)

7 23. In Los Angeles County, there was a discrepancy of 49,777 total ballots between the
8 November 2022 Voter Participation Statistics and the June 2024 Accounting. The November 2022
9 data show 2,456,701 total ballots counted, but the June 2024 Accounting shows 2,506,478 ballots
10 counted. (Swensen Dec., ¶ 11; Ex. 4; Plotnik Decl., ¶¶ 4, 5; RJN, Exs. 7, 8.) Further, only six of
11 forty-one Los Angeles County precinct numbers that EIPCa sampled from the June 2024
12 Accounting matched precinct numbers in the Los Angeles County Registrar’s official Statement of
13 Vote for the November 2022 election. For the precinct numbers EIPCa was able to locate, the total
14 ballots counted in those precincts differed significantly between the two official data sources.
15 (Swensen Decl., ¶ 15.)

16 24. The data received from the Secretary of State in June of 2024 reveals that in the
17 November 8, 2022, election, there was a substantial number of duplicate ballots, wherein more than
18 one ballot was attributed to a single voter’s Registration ID number. (Swensen Decl., ¶ 9.) On a
19 statewide basis, EIPCa’s audit of the June 2024 Accounting demonstrates that there were 21,355
20 unique voter Registration ID numbers that had more than one vote attributed to each individual
21 voter’s Registration ID number for the November 2022 election, totaling 42,769 ballots cast by
22 21,355 voters statewide. (*Id.* at ¶ 12.)

23 25. EIPCa’s audit revealed that Los Angeles County apparently had the highest
24 occurrence of duplicate ballots statewide for the November 2022 election, as there were 42,112
25 ballots cast by 21,027 unique Registration ID numbers that had more than one ballot attributed to
26 each individual voter’s Registration ID number. (*Id.*)

27 26. The duplicate ballots do not imply an answer or reason for why the data reflects a
28 difference of 43,624 ballots cast and counted statewide because even if these duplicate ballots are

1 not considered, there were still 22,210 more voters in the June 2024 data than voters listed as
2 participating in November 2022. (*Id.* at ¶ 14.)

3 27. In sum, 42,769 ballots are attributable to the 21,355 unique Registration ID numbers
4 statewide. (*Id.* at ¶ 12.) The implication is that thousands of invalid ballots were counted.

5 28. Because of the foregoing findings, EIPCa sought to determine if there are other
6 factors that explain these discrepancies. For instance, EIPCa has reviewed the Secretary’s Voter’s
7 Choice Act Report (“VCA”) Report, which explains that 125,950 ballots were rejected statewide in
8 the November 2022 election. Thus, if rejected ballots were the sole factor accounting for the
9 discrepancies, there would be a net statewide difference of 125,950 ballots between the November
10 2022 Voter Participation Statistics and the June 2024 Accounting, rather than 43,624 total ballots.
11 (*Swensen Decl.*, ¶ 13; *Plotnik Decl.*, ¶ 6; *RJN*, Ex. 9.)

12 29. EIPCa sent a certified letter to Respondent Weber setting forth the aforementioned
13 facts and requesting answers to its questions regarding the discrepancies. (*Paine Decl.*, ¶ 6; Ex. 2;
14 *Swensen Decl.*, ¶ 16) Elections officials are required to provide an answer to questions about
15 election procedures or, otherwise, recommend an official who may provide an answer. (*Elec. Code*
16 §2300(a)(9)(B); *Cal. Code Regs.*, tit. 2, § § 19001, 19003, 19008, 19009.)

17 30. EIPCa sent its letter to the Secretary of State on September 6, 2024. (*Paine Decl.*, ¶
18 6; Ex. 2.) Specifically, the letter asked six questions, including, but not limited to questions
19 regarding:

- 20 • Why the total number of ballots provided by the Secretary’s office in June 2024 exceeds
21 the number in the certification and what procedures were used to reconcile these
22 differences;
- 23 • Why certain counties had fewer ballots, and other counties had more ballots than
24 listed in the certification;
- 25 • Whether registrants with multiple ballots attributable to their voter registration ID
26 voted or attempted to vote twice in the November 8, 2022, election;
- 27 • What corrective action the Secretary’s office has taken regarding voters who
28 appeared to have voted more than once;
- Why the VoteCal system permits entry of multiple ballots for one registrant in an
election and the course of action planned to correct this problem; and

- How “confidential registrants” votes are counted and how many such ballots were counted.

31. Petitioner supplemented the letter on September 20, 2024. (Paine Decl. at ¶ 6; Ex. 3.) To date, Respondent has not provided answers to these questions presented in EIPCa’s September 6 letter. (*Id.* at ¶ 7.)

32. Petitioners’ counsel also made phone calls and transmitted written questions to the Secretary’s counsel and the Registrar’s counsel via email, requesting that Respondents provide explanations as to, among other things, why the ballot counts between the June 2024 Accounting and the November 2022 Voter Participation Statistics do not match; whether the voting histories uploaded into Respondents’ databases encompass all ballots *cast* or only ballots *counted*; and why the June 2024 Accounting reveals duplicate ballots. Despite the questions presented to the Secretary in writing on September 6, 2024, the written questions presented to legal counsel for the Registrar and the Secretary by Petitioners’ counsel, and phone conversations between Petitioners’ counsel and Respondents’ counsel, neither the Secretary nor the Registrar has provided a substantive response to the discrepancies. The only response provided via prior pleadings in this case is that Petitioners are looking at two distinct sets of data. However, both sets of data are prepared and provided by the Secretary, and in part, by Los Angeles County. Both sets of data purportedly reflect actual and accurate data pertaining to the November 2022 election.

33. Counsel for Respondents stated that they would present Petitioners’ questions to Respondents, but numerous weeks have lapsed without any response to Petitioners’ questions. Through its application for data, EIPCa simply sought to obtain “a voter list or file, by precinct, of all persons who voted in previous elections,” or specifically, the November 8, 2022, election, prompting EIPCa’s audit. (Elec. Code § 2191(a).) In other words, EIPCa sought to determine the registration information and the county and precinct in which a single voter lived and cast a ballot that was counted during the November 2022 election and the method by which this individual voter voted (poll, vote-by-mail, etc.) (Swensen Decl., ¶¶ 6, 8.) However, Respondents have suggested in prior pleadings that the two data sets provided to EIPCa present an “apples to oranges” comparison of: (1) the certified results of the November 2022 election used to prepare the Statement of the Vote;

1 and (2) a report of county-by-county voter registration data pulled from Vote Cal (California’s
2 centralized voter registration database) at the point in time at which the data is requested, which
3 shows that voters have moved. Given that EIPCa received a complete list of November 2022 voters,
4 including those who had been inactivated or cancelled since voting (voters who may have moved or
5 died subsequent to voting), this rationale cannot account for the duplicate ballots or provide EIPCa
6 with assurance that the data it requested under Elections Code section 2191(a) was the data provided
7 in June of 2024 by the Secretary of State. (Swensen Decl., ¶ 8.)

8 34. While the present Petition does not challenge past actions of Respondents or the
9 results of a past election or the November 2022 Voter Participation Statistics, Petitioners seek to
10 ensure that Respondents fulfill their legal obligations to give Petitioners answers to their questions
11 regarding elections procedures (or alternatively, direct Petitioners to an appropriate official for an
12 answer) and to relatedly provide accurate data pertaining to the November 2024 election. (Elec.
13 Code § 2300(a)(9)(B).)

14 35. Petitioners admit that there is possibly a legitimate answer to why the data reflects
15 substantial discrepancies. But without cooperation of the elections officials as is required by law,
16 Petitioners are left with no alternative but to file this Amended Petition to obtain answers regarding
17 the apparent lack of accurate accounting for the November 2022 election, to obtain proper data for
18 the November 2024 election so that Petitioners may perform their own audit of the November 2024
19 election, and to seek appropriate remedies in the event the discrepancies identified prove to be true.

20 **C. Grounds For Issuance Of Petitioners’ Requested Writ Of Mandate**

21 36. A writ of mandate may be issued pursuant to California Code of Civil Procedure
22 section 1085 to a person, board, or corporation to “compel the performance of an act which the law
23 specifically enjoins, as a duty resulting from an office, trust, or station...” (Code Civ. Proc. § 1085.)
24 The writ “must be issued in all cases where there is not a plain, speedy, and adequate remedy, in the
25 ordinary course of law. It must be issued upon the verified petition of the party beneficially
26 interested.” (Code Civ. Proc. §1086.) The requested writ is peremptory in nature, which
27 “command[s] the party to whom it is directed immediately after the receipt of the writ, or at some
28 other specified time, to do the act required to be performed” (Code Civ. Proc. §1087.)

1 37. In the present matter, Petitioners seek a writ to require Respondents to fulfill the
2 statutorily required obligations of their offices as they relate to the November 2024 election. The
3 Secretary of State is the chief elections officer of the state and is charged with administering the
4 provisions of the Elections Code. (Gov. Code § 12172.5, NVRA 52 U.S. Code § 20501(b)(4).) This
5 requires ensuring that accurate and current voter registration rolls are maintained, the elections are
6 efficiently run and that state election laws are enforced. (*Id.*) If the Secretary of State concludes that
7 the election laws are not being properly enforced, it is her duty to notify the district attorney or
8 attorney general. (*Id.*) The Secretary has been granted numerous means to determine whether
9 elections laws are being followed. (*Id.*)

10 38. The Los Angeles County elections official is tasked with counting and certifying all
11 votes that occur within his jurisdiction. (Cal. Code Regs., tit. 2, § 19098.) This includes certifying
12 ~~that~~ the results of the official canvas of the ballots cast in his county and ensuring that the certificate
13 is “full, true, and correct.” (*Id.*) An “elections official” is “[a] clerk or any person who is charged
14 with the duty of conducting an election” and “A county clerk, city clerk, registrar of voters, or
15 elections supervisor having jurisdiction over elections within any county, city, or district within the
16 state.” (Elec. Code § 320.)

17 39. At issue in the present matter are the duties of both the Los Angeles County elections
18 official and the Secretary in counting, analyzing, and certifying the voter numbers from an election.
19 Petitioners contend that the discrepancies described above are a result of the failure of the Registrar
20 and the Secretary to properly and accurately perform one or more of their ministerial duties. The
21 way elections take place and Respondents’ concordant duties are summarized as follows.

22 **D. Statutory Duties Of The Registrar As An Elections Official**

23 40. California permits vote-by-mail (“VBM”) in accordance with the Elections Code
24 Chapter 2, section 15100 et. seq. Processing of the VBM ballots may begin as early as 29 days prior
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1 to the election. (Elec. Code §15101.) ² The elections official directly appoints the board that
2 processes the VBM ballots. (Elec. Code §15102.)

3 41. It is also the elections official’s duty to keep an accurate list of all voters who have
4 received and voted using a VBM ballot and compare this list with the roster to determine if any
5 voter cast more than one ballot. (Elec. Code § 15111 [referencing §15278].) County elections
6 officials are tasked with synchronizing voter registration records in the county election management
7 system with the statewide system and to use the statewide system to determine a voter’s eligibility
8 to vote. (Cal. Code Regs. §19083.)

9 42. Immediately upon receipt of an adjudication of a voter’s VBM ballot, the elections
10 official is tasked with entering the status of the ballot as “Accepted” or “Not Accepted” along with
11 a “reason code” if it was not accepted. (Cal. Code Regs. §§ 19091, 19092, 19093.) The elections
12 official must send the status of each VBM, provisional,³ and CVR ballot⁴ in near real time to the
13 statewide voter registration system. (Cal. Code Regs. § 19096.) All ballots that require further
14 review must be resolved and a final adjudication sent to the statewide voter registration system
15 within 31 days after the election. (*Id.*)

16 43. On the first day of voting, the elections official must send over voter participation
17 history for each voter who participates to the statewide voter registration system in near real time.
18 (Cal. Code Regs. §19097.) The voter participation history must accurately indicate the method of
19 participation and is to be displayed on the Secretary of State’s “My Voter Status” page. (*Id.*)

20 44. Votes cast by VBM ballots and votes cast at the polling place are tabulated. (Elec.
21 Code §15321.) Results must be shown by precinct. (Elec. Code §15373.) The results must further

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24 ² Processing vote by mail ballots includes opening vote by mail ballot return envelopes, removing ballots,
25 duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them, including
processing write-in votes so that they can be tallied by the machine. (Elec. Code, § 15101, subd. (b).)

26 ³ A provisional ballot is a regular ballot placed in a special envelope that are cast by voters who believe they
27 are registered, but whose names on are not on the official registration list or who vote by mail and instead want to vote
at a polling place but do not have a ballot. The ballot will be counted if, after review, election officials confirm it is
valid. (Elec. Code § § 14310, 15350, 15100 *et. seq.*)

28 ⁴ CVR means conditional voter registration. (Cal. Code Regs. § 19062.) This applies for voters that missed the
registration deadline to conditionally register and cast a ballot.

1 be broken down to show the total number of ballots cast, the number of votes cast at each precinct
2 for each candidate, and the total number of votes cast. (Elec. Code § 15374.)

3 45. Immediately upon the close of the polls, a “semifinal official canvass” commences
4 and must continue without adjournment until all precincts are accounted for. (Elec. Code § 15150.)

5 46. The semifinal canvass is “the public process of collecting, processing, and tallying
6 ballots and, for state or statewide elections, reporting results to the Secretary of State on election
7 night. The semifinal official canvass may include some or all of the vote by mail and provisional
8 vote totals.” (Elec. Code § 353.3.)

9 47. The canvass of the election returns is merely ministerial; it is not in any sense a
10 legislative act. (*Devlin v Donnelly* (1912) 20 Cal.App. 495, 498.) The entry of the statement of the
11 result is of the same ministerial nature. (*Fairfield-Suisun Sewer Dist. v. Hutcheon* (1956) 139
12 Cal.App.2d 502, 511.)

13 48. The precinct board shall begin to count the ballots and must ensure that the number
14 of ballots corresponds with the number of signatures on the roster—noting the difference, if any.
15 (Elec. Code §15271.) This includes counting write-in votes in accordance with the provisions
16 applicable to processing such votes for the official canvass. (Elec. Code § 15153.) The results shall
17 be made public once the polls in all counties have closed and results are transmitted to the Secretary
18 of State at intervals of no greater than 2 hours. (Elec. Code § 15151.)

19 49. Where voting is done by a voting machine at a polling place as soon as polls are
20 closed, the precinct board, in the presence of all lawfully present, shall immediately: lock the voting
21 machine against all voting; count the ballots cast; and complete, sign, and return all furnished forms
22 requiring its signatures to the election’s official. The precinct board must complete and submit
23 furnished forms requiring the election official’s signature, including a verified certificate of
24 performance. (Elec. Code §15250.5.)

25 50. At polling locations where votes are counted and tallied, the results must be sealed
26 in an envelope and signed by the local precinct board, “certifying the total number of votes received
27 by each candidate for office” and certifying that the “votes cast forms” that are transmitted to the
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1 county elections official “show the total number of votes received by each candidate for each
2 office.” (Elec. Code §§ 15279, 15280.)

3 51. On the second day after the election, the elections official is required to send the
4 Secretary an initial report estimating the number of outstanding, unprocessed ballots. (Elec. Code §
5 15305.) The votes on the ballots are counted and tallied by precinct under the direction of the
6 election’s official. (*See* Elec. Code § 15290.) Upon completion of the count by the county precinct
7 board, the elections official shall compare the VBM voters list with the roster for each precinct to
8 determine if any voter cast more than one ballot. (Elec. Code § 15278.)

9 52. No later than the Thursday following the election, the official canvass must begin.
10 (Elec. Code § 15301.) And, for statewide elections, the canvas must result in a report to the
11 Secretary.

12 53. The official canvass is defined as “The public process of processing and tallying all
13 ballots received in an election, including, but not limited to, provisional ballots and vote by
14 mail ballots not included in the semifinal official canvass.” (Elec. Code § 15301.)

15 The official canvass also includes the process of reconciling ballots, attempting to prohibit
16 duplicate voting by vote by mail and provisional voters, and performance of the manual tally of 1
17 percent of all precincts. (Elec. Code § 335.5.)

18 54. The official canvass includes numerous tasks. (*See* Elec. Code § 15302(a)-(h).) Of
19 note, the number of signatures on the roster *must be reconciled with* the number of ballots recorded
20 on the ballot statement which, ultimately, must be reported to the Secretary of State. (Elec. Code §
21 15302.)

22 55. Votes cast by VBM and votes cast at the polling place are both tabulated by precinct.
23 (Elec. Code §15321.) Results must be shown by precinct. (Elec. Code §15373.) The results must
24 further be broken down to show the total number of ballots cast per precinct, the number of votes
25 cast at each precinct for each candidate, and the total number of votes cast per precinct. (Elec. Code
26 § 15374.) As a security measure, the total votes of a randomly chosen 1% of precincts per county
27 must also be manually counted and reconciled with the tabulator results. (Elec. Code § 15360.)
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1 56. When there is a discrepancy, the official is *required* to reconcile the number of ballots
2 received at each polling place with the number of ballots cast as indicated on the ballot statement.
3 (*Id.*)

4 57. Except when passing on the genuineness or sufficiency of a return, the duties of a
5 canvassing officer are purely ministerial, as they must simply add and ascertain by calculation the
6 number of ballots cast for any office and make the declaration in accordance with the results
7 obtained. (*People ex rel. Hicks v. Stewart* (1901) 132 Cal. 283.) An elections officer cannot go
8 beyond the returns and has no authority to consider any fact other than the returns before it. (*Id.*; *see*
9 *also Lamb v. Webb* (1907) 151 Cal. 451, 91.)

10 58. Beginning no later than the Thursday following the election, the elections official
11 must post reports on their internet website providing updated results. (Elec. Code § 15306.) During
12 this time, the elections official is charged with counting and finalizing the tabulation of all validly
13 cast ballots. (*Id.*)

14 59. Upon completion of the count, including the precinct-certified write-in votes, paper
15 ballots and provisional ballots, the elections official is tasked with declaring the vote and posting a
16 copy of it in the public space. (Elec. Code §§ 15320, 15372, 15350.)

17 60. Within 30 days of the election, the elections official shall prepare a certified
18 statement of the results and post them to their website. (Elec. Code § 15372.) The statement must
19 show: the total number of ballots cast; the number of votes cast at each precinct for each candidate;
20 the total number of votes cast for each candidate; and the number of votes cast in each city (and
21 other required subdivisions). (Elec. Code § 15374.)

22 61. Within 31 days of the election, the elections official then shall send to the Secretary
23 of State a complete copy of the results of statewide elections and federal elections—other than **the**
24 **votes** given for the electors of the president and vice president, the results of which must be
25 endorsed, canvassed, and sent 28 days after the elections. (Elec. Code §15375.) This report must
26 provide results for candidates voted for office and must include the total number of ballots cast. (*Id.*)

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1 62. Also, within 31 days, the elections official must provide the Secretary of State the
2 number of ballots rejected, by category. (Elec. Code § 15377.) Subsequently, the Secretary of State
3 must publish a report containing the information for every statewide election. (*Id.*)

4 **E. Certification Of The Vote By The Secretary**

5 63. Commencing with the first results of the semifinal official canvas that is received
6 from the elections officials, the Secretary of State shall compile the results for offices and measures
7 provided by the officials until completed. (Elec. Code § 15500.) The Secretary of State shall compile
8 the reports sent by the various officials and make them publicly available. (*Id.*, §15501.)

9 64. No later than the 32nd day following the election, the Secretary of State shall analyze
10 the votes given for presidential electors and certify to the Governor the names of the proper number
11 of persons having the highest number of votes. (*Id.*) (Elec. Code § 15505) The Secretary of State
12 then shall transmit to each presidential elector a certificate of election. (*Id.*)

13 65. No later than the 38th day after the election, the Secretary of State shall determine
14 the votes cast for each Senator and Representative and certify the person having the highest number
15 of votes. (Elec. Code § 15503.) The Secretary of State shall make out and deliver a certificate of
16 election for said persons. (Elec. Code § 15504.)

17 66. Moreover, the Secretary of State shall “prepare, certify, and file a statement of the
18 vote from the compiled results no later than the 38th day after the election” for candidates for
19 statewide office, statewide measures, and candidates for Assembly, State Senate, Congress, State
20 Board of Equalization, Supreme Court, and Courts of Appeal. (Elec. Code § 15501(b).) The
21 Secretary of State shall “post the certified statement of the vote on his or her Internet Web site in a
22 downloadable spreadsheet format that may include, but is not limited to, a comma-separated values
23 file or a tab-separated values file and that is compatible with a spreadsheet software application that
24 is widely used at the time of the posting.” (*Id.*)

25 67. Within 120 days of the filing of the statement of the vote, the Secretary of State shall
26 compile a supplement, showing the number of votes cast in each county, city, Assembly district,
27 senatorial district, congressional district and supervisorial district for each candidate for the offices
28

1 of presidential elector and a copy of this supplement shall be made available, upon request, to any
2 elector of this state. (Elec. Code § 15502.)

3 68. Black’s Law Dictionary defines “Certified” as: “A qualification or attribute meaning
4 to being officially attested or authoritatively confirmed as being genuine or true as represented, or
5 complying or meeting specified requirements or standards. A certificate may or may accompany
6 this qualification.” (See Black’s Law Dict. (2d ed. 1910).)

7 69. As demonstrated by the numerous serious discrepancies between the November 2022
8 Voter Participation Statistics and the June 2024 Accounting either: (1) Respondent Logan,
9 Respondent Weber, or both, failed to properly count and reconcile ballots; or (2) Respondent Weber
10 failed to provide the “voter list or file, by precinct, of all persons who voted” in the November 8,
11 2022 election, as requested by EIPCa. (Elec. Code § § 2191(a); 15302.) These duties are purely
12 ministerial and are an appropriate target for a writ of mandate.

13 70. Respondents were required to synchronize and ensure that voters only voted a single
14 time and, correspondingly, that each participating Registration ID is accounted for with only a single
15 ballot attributed to it. The data acquired from the Secretary of State demonstrates that the Secretary
16 failed to do this, or that Los Angeles County did not have a proper system in place to ferret out the
17 duplicate ballots before uploading the results to the Secretary’s database. Furthermore, the number
18 of voters with multiple votes demonstrates that it was not simply an oversight or a negligible amount
19 of duplicative voting.

20 71. Respondents have the ministerial duty under numerous statutes to reconcile the votes
21 to ensure the votes cast and certified votes are matching. (See Elec. Code §§ 335.5, 15302, 15374.)

22 72. The ministerial duty of Respondents was to ensure that the discrepancies at the
23 statewide level, the county level and the precinct level did not occur by reconciling the ballots
24 received with the ballots cast. (Elec. Code § 15302.) In certifying the election, Respondents attested
25 and confirmed that the count was true as represented.

26 73. Petitioners requested, and the Secretary of State confirmed it provided the June 2024
27 Accounting. However, the data provided by the Secretary of State did not match the November 2022
28 Voter Participation Statistics, as anticipated by EIPCa pursuant to its request under Elections Code

1 section 2191(a). Petitioners have a right to the actual November 2022 election data that Respondents
2 promised.

3 74. A writ of mandate is the correct remedy to “compel[] an officer to conduct an election
4 according to law.” (*See, Hoffman v. State Bar of California* (2003) 113 Cal. App. 4th 630,
5 639; *Conway v. City of San Mateo* (1981) 127 Cal. App. 3d 330, 334.) A writ is also the proper
6 remedy to compel a canvassing officer to discharge their duties and canvass the returns of an
7 election. (*People ex rel. Del Valle v. Butler* (1912) 20 Cal. App. 379.) The trial court has discretion
8 to grant a writ. (*Ault v. Council of City of San Rafael* (1941) 17 Cal. 2d 415.)

9 75. Petitioners, and California voters alike, will suffer the infringement of a substantial
10 right if the Petition is denied, as Respondents’ failure to conduct their ministerial duties prevents
11 accurate counting of ballots and certification of results. As such, California voters cannot know if
12 their ballots were counted, lost, or diluted. Further, EIPCa will be prejudiced because it will be
13 unable to adequately review elections results where the voting data provided to it by the Secretary
14 of State is not properly reconciled with the data listed in the certification.

15 76. Petitioners also suffer an infringement of their rights under the California Voter Bill
16 of Rights if Respondent Weber refuses to answer their questions, direct them to someone who can
17 answer, or provide them with an accurate “voter list or file.” (Elec. Code §2300(a)(9)(B); 2191; Cal.
18 Code Regs., tit. 2, § 19001, 19003, 19008, 19009.)

19 77. Due to the nature of this Petition seeking relief based on ministerial acts, there is a
20 minimal administrative record, and extrinsic evidence is admissible. (*See, e.g., Western States*
21 *Petroleum Association v. Superior Court of Los Angeles* (1995) 9 Cal.4th 559, 575 [explaining that
22 “extra-record evidence is usually necessary only when the courts are asked to review ministerial or
23 informal administrative actions, because there is often little or no administrative record in such
24 cases”].) Accordingly, Petitioner is prepared to compile the administrative record for this matter,
25 and the evidence Petitioner intends to offer has been submitted through the accompanying
26 declarations of Petitioners and EIPCa’s data analysts and Request for Judicial Notice and exhibits
27 attached thereto.

28

1 **FIRST CAUSE OF ACTION**

2 **(Writ of Mandate Under Code of Civil Procedure § 1085)**

3 **(Count 1: Against Respondent LOGAN)**

4 78. Petitioners incorporate the allegations above as though fully set forth herein.

5 79. Respondent Logan, the County Registrar-Recorder/County Clerks as an election
6 official must participate in an official canvas, consisting of among other things, reconciling the
7 number of signatures on the roster with the number of ballots recorded on the ballot statement. (Elec.
8 Code § § 15301, 15302.)

9 80. Respondent Logan was also required to prepare a certified statement of the result of
10 the elections (including VBM votes and votes taken at the polling place) within 30 days of the
11 election. (Elec. Code § 15372.)

12 81. Finally, Respondent Logan as an elections official must send the Secretary of State
13 a complete copy of the results of statewide elections and federal elections, including results for
14 candidates voted for office and the total number of ballots cast within 31 days of the election. (Elec.
15 Code § 15375.) The elections official must also provide the Secretary of State the number of ballots
16 rejected by category. (Elec. Code § 15377.)

17 82. As an elections official, Respondent Logan is also obligated to provide answers to
18 any questions asked by voters about election procedures or direct voters to the appropriate elections
19 official to receive an answer(s). (Elec. Code § 2300(a)(9)(B).) Moreover, Respondent Logan must
20 “compile a voter list or file, by precinct, of all persons who voted in previous elections” upon
21 request. (Elec. Code § 2191(a).)

22 83. Here, Respondent Logan has clear ministerial duties under Elections Code section
23 15300, *et. seq.* Respondent Logan has violated these duties by failing to prevent duplicate ballots
24 from being counted and certified and failing to reconcile the apparent underreporting of total ballots
25 counted in California’s November 2022 general election to the Secretary of State. Said inaccuracies
26 caused or contributed to an incorrect ballot count transmitted to the Secretary of State. Code of Civil
27 Procedure section 1085(a) provides that, “A writ of mandate may be issued by any court to any
28 inferior tribunal, corporation, board, or person, to compel the performance of an act which the law

1 88. Upon receipt of the official canvas from the election official for each county, the
2 Secretary of State is required to compile the results for offices and measures provided by the officials
3 until completed. (Elec. Code § 15500.) Further, the Secretary of State must compile the reports sent
4 by the various officials and make them publicly available. (*Id.*, §15501.)

5 89. Importantly, the Secretary of State is required to determine the votes cast for each
6 Senator, Representative, and presidential candidate and certify the person having the highest number
7 of votes on or before the 38th day after the election. (Elec. Code § § 15503, 15505.) Certification
8 requires the accuracy of information “officially attested or authoritatively confirmed as being
9 genuine or true as represented, or complying or meeting specified requirements or standards.” (See
10 Black’s Law Dict. (2d ed. 1910).)

11 90. Here, Petitioners exercised their rights under the California Voter Bill of Rights by
12 “ask[ing] questions about election procedures and observ[ing] the election process,” prompting their
13 request for an explanation of the discrepancies between the November 2022 Voter Participation
14 Statistics and the June 2024 Accounting (Elec. Code §2300(a)(9)(B).) However, Weber violated her
15 ministerial duties under Elec. Code section 15500, et. seq., by certifying an inaccurate compilation
16 of votes and ballots, and by declining to provide an explanation as to the discrepancies to Petitioners
17 upon their request.

18 91. Code of Civil Procedure section 1085(a) provides that, “A writ of mandate may be
19 issued by any court to any inferior tribunal, corporation, board, or person, to compel the performance
20 of an act which the law specially enjoins, as a duty resulting from an office, trust, or station, or to
21 compel the admission of a party to the use and enjoyment of a right or office to which the party is
22 entitled, and from which the party is unlawfully precluded by that inferior tribunal, corporation,
23 board, or person.” (Code Civ. Proc. § 1085(a).)

24 92. Here, Petitioners seek to compel Weber to provide a written statement with an
25 explanation as to why the total number of votes in the November 2022 Voter Participation Statistics
26 is inconsistent with the total number of votes in the June 2024 Accounting and an explanation
27 underlying the 42,769 duplicate ballots attributable to 21,355 unique Registration IDs statewide,
28 pursuant to Petitioners’ request under Elections Code sections 2191 and 2300(a)(9)(B). Petitioners

1 have no plain, speedy, and adequate remedy at law, other than the relief sought within this request.
2 (*Flores, supra*, 224 Cal.App. 4th at 209.) Weber must perform her ministerial duty to verify that all
3 ballots are lawfully cast and accurately counted and that only a single ballot is associated with a
4 single voter registration ID.

5 93. Petitioners also seek to compel Weber to provide EIPCa with accurate finalized list
6 from the November 2024 election of the voters whose ballots were cast and counted in the election,
7 the methods by which these ballots were cast, and the counties and precincts in which the voters
8 resided at the time they voted to align with the numbers in the November 2022 Voter Participation
9 Statistics published at the time of certification. (Elec. Code § 2191(a).) (Elec. Code § 2191(a).)

10 94. Respondent must perform her ministerial duties to verify that all ballots are lawfully
11 cast and accurately counted and that only a single ballot is associated with a single voter registration
12 ID. A writ pursuant to Elections Code section 16100 et. seq. would be improper here, given that this
13 section pertains to challenges of the *results* of an election related to ballot measures and candidates.

14 **PRAYER FOR RELIEF**

15 **WHEREFORE**, Petitioners pray that this court:

16 1. Issue a peremptory writ of mandate ordering Respondent Weber to respond to
17 Petitioner’s questions laid forth in their September 6, 2024, correspondence pertaining to the
18 November 2022 election;

19 2. Issue a peremptory writ of mandate ordering Respondent Logan to provide an
20 explanation underlying the 42,112 duplicate ballots attributable to 21,027 voter registration ID
21 numbers for the November 8, 2022, Voter Participation Statistics;

22 3. Issue a peremptory writ of mandate ordering Respondent Logan to provide an
23 explanation underlying the 49,777 ballots reflected in the June 2024 Accounting but not included in
24 the Secretary of State’s certified Statement of Vote for the November 2022 Voter Participation
25 Statistics;

26 4. Issue a peremptory writ of mandate ordering Respondent Weber to provide EIPCa
27 with an accurate and finalized list of the 16,140,044 state voters whose ballots were cast and counted
28

1 in the November 2024 general election⁵, their state Registration ID numbers, the methods by which
2 these ballots were cast, and the counties and precincts in which the voters resided at the time they
3 voted to align with the 2024 Voter Participation Statistics published at the time of certification. If
4 this list cannot be provided, direct EIPCa to where it can attain such a statewide list. (Elec. Code §
5 2191(a));

6 5. Issue a peremptory writ of mandate ordering Respondent Logan to provide EIPCa
7 with an accurate and finalized list of the 3,793,106 Los Angeles County voters whose ballots were
8 cast and counted in the November 2024 general election⁶, their county registration ID numbers, the
9 methods by which these ballots were cast, and the precincts in which the voters resided at the time
10 they voted to align with the 2024 Voter Participation Statistics published at the time of certification.
11 (Elec. Code § 2191(a));

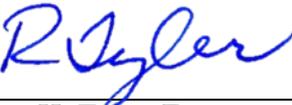
12 6. Award attorneys' fees under Code of Civil Procedure section 1021.5;

13 7. Costs of suit incurred herein; and

14 8. Award such other and further relief that the court may deem just and proper.

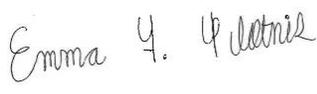
15
16 DATED: February 10, 2025

ADVOCATES FOR FAITH & FREEDOM

17 By: 
18 _____
Robert H. Tyler, Esq.
Julianne E. Fleischer, Esq.

19 DATED: February 10, 2025

TYLER LAW, LLP

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21 By: 
22 _____
Emma F. Plotnik, Esq.
23 Attorneys for Petitioners

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25
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27 _____
⁵ See, Swensen Decl., ¶ 17; Plotnik Decl., ¶ 7; RJN, ¶ Ex. 10.

28 ⁶ See, Swensen Decl., ¶ 17; Plotnik Decl., ¶ 7; RJN, ¶ Ex. 10.

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VERIFICATION

I am an officer of Election Integrity Project California, Inc., a party to this action, and authorized to make this verification for and on its behalf, and I make this verification for that reason.

I am informed, believe and on that ground allege that the matters stated in the foregoing Verified First Amended Petition for Peremptory Writ of Mandate, are true. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

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

Executed on Jan. 27, 2025, at Prescott, Arizona.

**ELECTION INTEGRITY PROJECT
CALIFORNIA, INC.**

By *Linda Paine*
Linda Paine

Its President

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VERIFICATION

I have read the foregoing **VERIFIED FIRST AMENDED PETITION FOR PEREMPTORY WRIT OF MANDATE** and know its contents.

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

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

Executed on February 1, 2025, at San Gabriel, California.

Larry Lewis
Larry Lewis (Feb 1, 2025 10:55 PST)

Larry Lewis

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PROOF OF SERVICE

I am an employee in the County of Riverside. I am over the age of 18 years and not a party to the within entitled action; my business address is 25026 Las Brisas Road, Murrieta, California 92562.

On February 11, 2025, I served a copy of the following document(s) described as **VERIFIED FIRST AMENDED PETITION FOR PEREMPTORY WRIT OF MANDATE** on the interested party(ies) in this action as follows:

SEE ATTACHED SERVICE LIST

BY E-MAIL OR ELECTRONIC TRANSMISSION. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I transmitted copies of the above-referenced document(s) on the interested parties in this action by electronic transmission. Said electronic transmission reported as complete and without error.

BY UNITED STATES POSTAL SERVICE. I am readily familiar with the practice for collection and processing of correspondence for mailing and deposit on the same day in the ordinary course of business with the United States Postal Service. Pursuant to that practice, I sealed in an envelope, with postage prepaid and deposited in the ordinary course of business with the United States Postal Service in Murrieta, California, the above-referenced document(s).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am an employee in the office of a member of the bar of this Court who directed this service.



Susan Y. Kenney

SERVICE LIST

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