

1 MARGO A. RAISON, COUNTY COUNSEL
Marshall S. Fontes, Chief Deputy (SBN 139567)
2 Stephanie Virrey Gutcher, Deputy (SBN 277833)
By: Andrew C. Hamilton, Deputy (SBN 299877)
3 Kern County Administrative Center
1115 Truxtun Avenue, Fourth Floor
4 Bakersfield, CA 93301
Telephone: (661) 868-3800
5 Facsimile: (661) 868-3805
Email: sfontes@kerncounty.com
6 sgutcher@kerncounty.com
ahamilton@kerncounty.com

ELECTRONICALLY FILED
12/23/2024 3:44 PM
Kern County Superior Court
By Gricelda Evans, Deputy

7 Attorneys for Kern County Elections Division

[Exempt from filing fees, Gov. Code, § 6103]

8
9 **SUPERIOR COURT OF CALIFORNIA**

10 **FOR THE COUNTY OF KERN**

11 JENNIFER ESTRADA,

Petitioner/Contestant,

13 vs.

14 MERCY PEÑA,

Respondent/Defendant.

Case No. BCV-24-104155 BCB

**KERN COUNTY ELECTIONS DIVISION'S
ANSWER TO THE SECOND AMENDED
PETITION FOR WRIT OF ORDINARY
MANDATE; COMPLAINT FOR
DECLARATORY RELIEF; AND
PETITIONER/ CONTESTANT'S
STATEMENT OF ELECTION CONTEST**

16 JENNIFER ESTRADA and GREENFIELD
17 UNION SCHOOL DISTRICT,

Petitioners,

19 vs.

20 KERN COUNTY ELECTIONS DIVISION,

Respondent.

Judge: Hon. Bernard C. Barmann, Jr.
Department: H

Action Filed: December 4, 2024
Trial Date: None set

22 RICARDO HERRERA,

Real Party in Interest.

25 Defendant Kern County Elections Division (hereinafter "County"), hereby answers the
26 Second Amended Petition for Writ of Ordinary Mandate; Complaint for Declaratory Relief; and
27 Petitioner/Contestant's Statement of Election Contest (hereinafter "Petition") as follows:

28 ///

1 **ADMISSIONS AND DENIALS**

2 1. The County admits paragraphs 1-2, 5-7, 13-14, 17-18, 22-24, 27, and 29.

3 2. The County admits paragraph 30 to the extent is has a clear, present, ministerial, and
4 legal duty to certify election results. The County denies that it failed to do so.

5 3. The County denies paragraphs 16 and 34-37.

6 4. The County lacks sufficient personal knowledge to either admit or deny paragraphs 3-
7 4, 8-9, 12, 15, 21, 26, and 29.

8 5. The County can neither admit nor deny paragraphs 10-11, 19-20, 25, 28, 31-33, 38,
9 40-41. Such paragraphs are either introductory, prayers for relief, or statements of law that are not
10 properly subject to admission or denial.

11 **FIRST AFFIRMATIVE DEFENSE**

12 **Failure to State Cause of Action**

13 6. The Petition is barred in whole or in part by Petitioners' failure to state facts sufficient
14 to constitute a cause of action against the County.

15 **SECOND AFFIRMATIVE DEFENSE**

16 **Statute of Limitations**

17 7. The Petition is barred in whole or in part by the statute of limitations set forth in
18 Elections Code section 16401.

19 **THIRD AFFIRMATIVE DEFENSE**

20 **Standing**

21 8. The Petition is barred in whole or in part because Petitioners lack standing. (Elec.
22 Code, § 16100.)

23 **THIRD AFFIRMATIVE DEFENSE**

24 **Laches**

25 9. The Petition is barred in whole or in part by the doctrine of laches.

26 **FOURTH AFFIRMATIVE DEFENSE**

27 **Unclean Hands**

28 10. The Petition is barred in whole or in part by Petitioners' unclean hands.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FIFTH AFFIRMATIVE DEFENSE

Equitable Estoppel

11. The Petition is barred in part or in whole by Petitioners’ own acts and omissions.

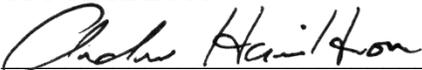
WHEREFORE, the County requests judgment as follows:

1. That Petitioners’ take nothing by this action and that the Petition be dismissed with prejudice as to the Kern County Elections Division;
2. That County recover from Petitioners’ costs;
3. That the Court order further reasonable relief.

DATED: December 23, 2024

Respectfully Submitted,

MARGO A. RAISON

By: 
Marshall S. Fontes, Chief Deputy
Stephanie Virrey Gutcher, Deputy
Andrew C. Hamilton, Deputy
Attorneys for Kern County Elections
Division

PROOF OF SERVICE

I am over the age of eighteen years and not a party to the within action; my business address is 1115 Truxtun Avenue, Fourth Floor, Bakersfield, CA 93301.

On the date last written below, I served the attached **KERN COUNTY ELECTIONS DIVISION’S ANSWER TO THE SECOND AMENDED PETITION FOR WRIT OF ORDINARY MANDATE; COMPLAINT FOR DECLARATORY RELIEF; AND PETITIONER/ CONTESTANT’S STATEMENT OF ELECTION CONTEST** on the party(ies) listed below, through their attorneys of record, if any, by facsimile transmission, by personal delivery or by placing true copies/originals thereof in sealed envelope(s) addressed/designated as shown below:

A. BY MAIL - I enclosed such document(s) in sealed envelope(s) or package(s) with the name(s) and address(es) of the person(s) served as shown on the envelope(s) and caused such envelope(s) to be deposited in the mail at Bakersfield, California. I placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with the firm’s practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

B. BY OVERNIGHT SERVICE - I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the person(s) at the address(es) listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

C. BY FACSIMILE SERVICE – Based on an agreement of the party(ies) to accept service by fax transmission, I placed such document in a facsimile machine (pursuant to California Rules of Court, Rule 2.301(3)) with the fax number of (661) 868-3805. Upon facsimile transmission of the document, I obtained a report from the transmitting facsimile machine stating that the facsimile transmission was complete and without error. A copy of the transmission report is attached to this Proof of Service pursuant to California Rules of Court, Rule 2.306(g).

D. BY PERSONAL SERVICE – I caused such envelope(s) to be personally delivered by hand to the addressee(s) listed below.

E. BY ELECTRONIC MAIL – Pursuant to C.C.P. 1010.6, C.R.C. 2.251, 2.252 et seq and local rule of court 1.10, I caused a copy of such document(s) to be transmitted via electronic mail in Portable Document Format (“PDF”) Adobe Acrobat from the electronic address: jsnow@kerncounty.com

Type of Service	Addressee
A & E	SEE ATTACHED

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(FEDERAL) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on **December 23, 2024**, at Bakersfield, California.



Jerilyn Snow

PROOF OF SERVICE

SERVICE LIST/MAILING LIST

ADDRESSEE	TYPE OF SERVICE
SIMAS & ASSOCIATES, LTD. Steven L. Simas Ryan M. Keever Frances E. Heredia 7355 Morro Road, Ste 101 Atascadero, Ca 93422	A, E info@simasgovlaw.com
<i>As To</i> ***Plaintiff	

27R0790