

1 **QURESHI LAW PC**
Omar Qureshi (Cal. Bar No. 323493)
2 omar@qureshi.law
Max Schoening (Cal. Bar No. 324643)
3 max@qureshi.law
700 Flower Street, Suite 1000
4 Los Angeles, CA 90017
Telephone: (213) 600-6096
5 Facsimile: (213) 277-8989

6 **ELIAS LAW GROUP LLP**
7 Aria C. Branch*
abranh@elias.law
8 William K. Hancock*
whancock@elias.law
9 Renata O'Donnell*
rodonnell@elias.law
10 Tyler L. Bishop (Cal. Bar No. 337546)
tbishop@elias.law
11 250 Massachusetts Avenue, Suite 400
Washington, DC 20001
12 Telephone: (202) 968-4490

13 *Pro hac vice application pending
14 *Attorneys for Plaintiffs*

15
16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **IN AND FOR THE COUNTY OF LOS ANGELES**

18 CALIFORNIA ALLIANCE FOR RETIRED
AMERICANS, a California nonprofit
19 corporation, JUAN PARRINO, an individual,
and SAM SAIU, an individual,

20 Plaintiffs and Petitioners,

21 v.

22 SHIRLEY WEBER, in her official capacity as
23 CALIFORNIA SECRETARY OF STATE,

24 Defendant and Respondent.

Case No. 24STCP02062

**PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
OPPOSITION TO THE EX PARTE
APPLICATION OF NATIONAL
REPUBLICAN CONGRESSIONAL
COMMITTEE, CALIFORNIA
REPUBLICAN PARTY, AND
REPUBLICAN NATIONAL
COMMITTEE FOR LEAVE TO
INTERVENE**

Date: July 17, 2024

Time: 8:30 AM

Dept: 86

Judge: Hon. Curtis Kin

1 **ARGUMENT**

2 **I. The Republican Committees do not satisfy the standard for intervention as of right.**

3 The Republican Committees must satisfy each of the following requirements to intervene
4 as a matter of right: they must (1) make a “timely application;” (2) “claim[] an interest relating to
5 the property or transaction that is the subject of the action;” (3) show that they are “situated that the
6 disposition of the action may impair or impede [their] ability to protect that interest;” and (4) show
7 that their interests are not already “adequately represented by one or more of the existing parties.”
8 Cal. Civ. Proc. Code § 387(d)(1)(B). It is the movant’s burden to establish each element. *Accurso*
9 *v. In-N-Out Burgers*, 94 Cal. App. 5th 1128, 1136–37 (2023), as modified (Sept. 25, 2023). Failure
10 to satisfy any one of these requirements supplies an independent basis to deny intervention. *See*
11 *Socialist Workers Etc. Committee v. Brown*, 53 Cal. App. 3d 879, 892 (1975).

12 Although Plaintiffs do not contest the timeliness of the Motion to Intervene, the Republican
13 Committees fail to meet any of Rule 387’s other three requirements: they do not have a unique and
14 cognizable interest related to this action; none of the interests they identify would be impaired by
15 the disposition of this case; and the Republican Committees’ purported interests are already
16 adequately represented by the Secretary of State.

17 **A. The Republican Committees do not have a legally protectable interest that will**
18 **be impeded or impaired by this action.**

19 The Republican Committees lack a “direct rather than consequential” interest in the subject
20 of the lawsuit. *City & County of San Francisco v. State of California*, 128 Cal. App. 4th 1030, 1037
21 (2005). A direct interest justifying intervention is one “where the judgment in the action *of itself*
22 adds to or detracts from his legal rights without reference to rights and duties not involved in the
23 litigation.” *Id.* By contrast, an interest is “consequential” and does *not* merit intervention where
24 “the results of the action may indirectly benefit or harm its owner.” *Id.* The Republican Committees
25 have no direct interest in this litigation. Intervention as of right must therefore be denied.

26 **Competitive Election Environment.** The Republican Committees claim that they have an
27 interest in “preventing changes to the competitive environment of elections.” Mem. Of Points &
28 Auths. (“Mem.”) at 1. But the Signature Verification Law does not afford any particular party or

1 candidate an advantage. To the contrary, as the Republican Committees say themselves, “each of
2 the state’s 22 million voters receive a vote-by-mail ballot.” Mem. at 4. The vast majority of
3 Californians of both political parties vote by mail and are subject to California’s Signature
4 Verification Law. *See* Compl. ¶¶ 21–28. Plaintiffs seek an injunction to ensure that lawful ballots
5 cast by California voters are counted—in other words, to *protect* access to the political process, not
6 inhibit it. The California Alliance for Retired Americans is a nonpartisan organization that is
7 dedicated to robust political participation from Californians of *all* political parties. If Plaintiffs
8 obtain the relief they seek, all California voters—including the Republican Committees’ members
9 and voters—will be protected against having their ballots rejected due to subjective signature
10 comparison errors. The Republican Committees will not need to expend resources to protect voters,
11 because the lawsuit seeks only to eliminate one of the most common reasons for rejecting mail
12 ballots—in other words, no voter, regardless of their political affiliation, will be worse off if the
13 Court enjoins the witness requirement. The Republican Committees’ do not offer an explanation
14 that would justify a conclusion to the contrary.

15 Nor have the Republican Committees explained how the relief Plaintiffs seek would injure
16 their competitive interests. Republican Committees rely exclusively on federal cases that establish
17 the unremarkable fact that political parties have sometimes been granted intervention in other cases
18 touching on election law issues. But as those cases show, a “competitive” injury must be supported
19 by a plausible allegation or showing of an “ongoing, unfair advantage.” *Mecinas v. Hobbs*, 30 F.4th
20 890, 898 (9th Cir. 2022). For instance, *Shays v. FEC*, 414 F.3d 76, 86 (D.C. Cir. 2005), held that
21 two Congressmen could intervene in the case because they would face “intensified competition”
22 under the FEC rules challenged in the litigation. And in *Issa v. Newsom*, Nos. 2:20-cv-01044-MCE-
23 CKD, 2:20-cv-01055-MCE-CKD, 2020 WL 3074351 (E.D. Cal. June 10, 2020), the political party
24 organizations were granted intervention based on articulated interests of “asserting the rights of
25 their members to vote safely without risking their health” and “advancing their overall electoral
26 prospects.” *Id.* at *3.

27 Simply stating, as the Republican Committees do here, that this lawsuit will change the
28 “electoral competitive environment,” Mem. at 4, without explaining why or how it will do so—

1 or, more importantly, how those changes will *injure* them—is insufficient. Moreover, to the extent
2 that the Republican Committees’ competitive advantage hinges on fewer Californians having their
3 ballots counted, disenfranchising voters is not a protectable interest. *See, e.g., Carrington v. Rash*,
4 380 U.S. 89, 94 (1965) (“‘Fencing out’ from the franchise a sector of the population because of the
5 way they may vote is constitutionally impermissible”); *Short v. Brown*, 893 F.3d 671, 677 (9th Cir.
6 2018) (a law that “makes it easier for some voters to cast their ballots by mail” does not burden
7 anyone’s right to vote).

8 **Vote Dilution and Integrity of the Election Process.** The Republican Committees also
9 argue that they have an interest in protecting their members from “vote dilution resulting from the
10 casting of illegal ballots.” Mem. at 6. But a “veritable tsunami” of courts across the country have
11 *uniformly* rejected that vote dilution is a cognizable interest. *O’Rourke v. Dominion Voting Sys.*
12 *Inc.*, No. 20-CV-03747-NRN, 2021 WL 1662742, at *9 (D. Colo. Apr. 28, 2021) (collecting cases),
13 *aff’d*, No. 21-1161, 2022 WL 1699425 (10th Cir. May 27, 2022); *Paher v. Cegavske*, 457 F. Supp.
14 3d 919, 926 (D. Nev. 2020) (“Plaintiffs’ purported injury of having their votes diluted due to
15 ostensible election fraud may be conceivably raised by any [] voter.”); *Bowyer v. Ducey*, 506 F.
16 Supp. 3d 699, 712 (D. Ariz. 2020) (rejecting vote dilution claim because it raised only generalized
17 grievances).

18 The Republican Committees have also not substantiated their concerns about vote dilution.
19 There is *zero* evidence of fraud perpetrated by signature forgery. Compl. ¶ 9. And Plaintiffs’ claim
20 is brought under Article II, section 2.5—which only protects ballots cast in accordance with state
21 law—so it would not result in the counting of ballots that did not comply with California law.

22 Republican Committees also assert an interest in “ensuring that California runs free and fair
23 elections.” Mem. at 2. This generalized interest in election integrity is neither threatened by
24 Plaintiffs’ lawsuit nor a sound basis for intervention. *See Donald J. Trump for President, Inc. v.*
25 *Boockvar*, 493 F. Supp. 3d 331, 376 (W.D. Pa. 2020) (holding that plaintiffs, including the
26 Republican National Committee, lacked standing to vindicate generalized election integrity
27 interests); *Flying J., Inc. v. Van Hollen*, 578 F.3d 569, 571 (7th Cir. 2009) (holding that an
28 intervenor’s “interest” must be something more than the minimum injury required for Article III

1 standing); *Common Cause Ind. v. Lawson*, No. 1:17-cv-03936-TWP-MPB, 2018 WL 1070472, at
2 *4–5 (S.D. Ind. Feb. 27, 2018) (finding organization’s claimed interests in “state control over
3 structuring its own election system” and the state’s “ability to conduct fair and robust elections”
4 were “too generalized to afford a right to intervention under Rule 24(a), as they are the same for
5 the proposed intervenor as for every registered voter in Indiana”); *Am. Ass’n of People with*
6 *Disabilities v. Herrera*, 257 F.R.D. 236, 253 (D.N.M. 2008) (“[A]n interest in fair elections and the
7 prevention of voter registration fraud . . . [is] too general an interest to form the basis of a rule 24(a)
8 [sic] motion.”).¹

9 In *Socialist Workers*, for example, Common Cause sought to intervene in litigation
10 challenging the validity of Elections Code provisions that required public disclosure of campaign
11 contributions, claiming an interest on its own behalf and on behalf of its members “to work for the
12 improvement of political and governmental institutions and processes.” 53 Cal. App. 3d at 886. But
13 “the court concluded this bare political interest in the laws was not sufficient to support
14 intervention.” *City & County of San Francisco*, 128 Cal. App. 4th at 1039 (citing *Socialist Workers*,
15 53 Cal. App. 3d at 891–92). And “despite their organizational charter to improve government, the
16 court concluded the petitioners stood in the same position as all Californians with respect to their
17 interest in the validity of the disclosure laws, and this political interest was too ‘indirect and
18 inconsequential’ to support intervention.” *Id.* at 1040 (quoting *Socialist Workers*, 53 Cal. App. at
19 892). Similarly, in *People ex rel. Rominger v. County of Trinity*, 147 Cal. App. 3d 655 (1983), the
20 court made clear that “Sierra Club members’ political interest in upholding environmental laws was
21 *not* an appropriate basis for intervention.” *City & County of San Francisco*, 128 Cal. App. 4th at
22 1040 (citing *Rominger*, 147 Cal. App. 3d at 662–63). Rather, “a general political interest in
23 upholding a statute” is insufficient to intervene in a challenge to it because “one of the purposes of
24 intervention is ‘to protect the interests of those who may be affected by the judgment.’” *Rominger*,

25
26 ¹ Moreover, the Republican Committees never explain why counting more ballots inhibits “free
27 and fair elections.” Mem. at 2. Quite to the contrary, the relief that Plaintiffs seek promotes elections
28 that are freer and fairer than ones in which tens of thousands of ballots are rejected and not included
in the final vote count due to entirely subjective and error-prone signature comparison
determinations. This is especially true where there is no evidence that any of the rejected ballots
were cast by anyone other than lawful, eligible voters.

1 147 Cal. App. 3d at 662 (quoting *County of San Bernardino v. Harsh Cal. Corp.*, 52 Cal. 2d 341,
2 346 (1959)).

3 **B. The Republican Committees’ generalized interest is adequately represented by**
4 **the Secretary of State.**

5 The Republican Committees also have not distinguished their generalized interest in
6 upholding the Signature Verification Law from that of the Secretary’s counsel—the Attorney
7 General—who is obligated to defend any case where a state officer is a party. *See* Cal. Gov. Code.
8 § 12512. Their motion can be denied on this ground alone.

9 The Republican Committees face an especially high hurdle here, both because they will
10 share the same “ultimate objective” as the Secretary, and because the Secretary is a government
11 defendant. *See Oakland Bulk & Oversized Terminal, LLC v. City of Oakland*, 960 F.3d 603, 620
12 (9th Cir. 2020) (explaining that a “very compelling showing” is required to rebut a “presumption
13 of adequacy” when “the government is acting on behalf of a constituency it represents,” or when
14 the applicant and existing party “have the same ultimate objective” (quoting *Arakaki v. Cayetano*,
15 324 F.3d 1078, 1086 (9th Cir. 2003)); *see also, e.g., Prete v. Bradbury*, 438 F.3d 949, 957 (9th Cir.
16 2006) (“[D]efendant is the Oregon government, and intervenor-defendants (the Oregon AFL–CIO
17 and its president) share the same interest with defendant, i.e., defending Measure 26. Therefore, it
18 is assumed that defendant is adequately representing intervenor defendants’ interests.”); *accord* 7C
19 Charles A. Wright *et al.*, *Federal Practice and Procedure* § 1909 (3d ed. 2024) (explaining that
20 one of the “situations [where] representation will be presumed adequate unless special
21 circumstances are shown” is “when a governmental body or officer is the named party”).

22 The Republican Committees acknowledge that their “primary objective” is “to safeguard
23 the vote and the vote by-mail ballot process” by upholding the Signature Verification Law, who
24 also seeks to uphold the Signature Verification Law. Mem. at 7. They do not explain how that
25 objective differs from that of the Secretary. *See Oakland Bulk*, 960 F.3d at 620. And their focus on
26 potential conflicts between the Secretary’s “broader interests” and their “specific and targeted
27 interests,” Mem. at 7, does not amount to the kind of “compelling showing” necessary to support
28 intervention. *See, e.g., Yazzie v. Hobbs*, No. 20-CV-08222, 2020 WL 8181703, at *4 (D. Ariz. Sept.

1 16, 2020) (denying intervention where “Defendant [was] more than capable of defending the
2 constitutionality of the [state law] without the Republican Movants’ assistance” and proposed
3 intervenor thus failed to overcome presumption of adequate representation); *Forest Serv. Emps. for*
4 *Env’t Ethics v. U.S. Forest Serv.*, No. 22-CV-168, 2023 WL 2712391, at *2–3 (D. Mont. Mar. 30,
5 2023) (denying intervention where “Applicants ha[d] not made any showing, let alone a compelling
6 one, that [defendant] is unwilling to make, or incapable of making, all of Applicants’ arguments or
7 that Applicants would offer any necessary elements to the proceeding that [defendant] would
8 neglect”).

9 While the Republican Committees argue that the Secretary cannot represent their partisan
10 interests in the “outcome of particular elections” and point to topics on which they “may” generally
11 disagree with the Secretary in the future—such as litigation expenses, the “social and political
12 divisiveness of the election issue,” and the “interests of opposing parties”—they do no more than
13 speculate in passing that these may “affect the way the Secretary goes about defending the case.”
14 Mem. at 7.² The Republican Committees have not even attempted to identify any arguments that
15 they intend to make if intervention is granted, let alone made any showing that the Secretary would
16 be unwilling or incapable of making those arguments. *See Oakland Bulk*, 960 F.3d at 620.

17 **II. The Republican Committees should be denied permissive intervention.**

18 The Court may only permit intervention if the Republican Committees have “an interest in
19 the matter in litigation, or in the success of either of the parties, or an interest against both.” Cal.
20 Civ. Proc. Code § 387(d)(2). As with intervention as of right, “[t]o support permissive intervention,
21 it is well settled that the proposed intervenor’s interest in the litigation must be direct rather than
22 consequential, and it must be an interest that is capable of determination in the action.” *City &*
23

24 ² None of the cases the Republican Committees cite in support of this argument are similar. In
25 *Clark v. Putnam County*, the court held that “[i]n negotiating a new [redistricting] plan [county]
26 commissioners” would not adequately “represent the interest of the black intervenors to have an
27 opportunity to elect the commissioner of their choice.” 168 F.3d 458, 462 (11th Cir. 1999). In *Meek*
28 *v. Dade County*, the court held that proposed intervenors were entitled to intervene to appeal an
injunction that Dade County had “decided not to appeal.” 985 F.2d 1471, 1478 (11th Cir. 1993).
And in *In re Sierra Club*, the court held that Sierra Club’s interests were not adequately represented
by a state agency, noting that they had “already taken opposing positions” in the litigation. 945
F.2d 776, 780 & n.9 (4th Cir. 1991).

1 *County of San Francisco*, 128 Cal. App. 4th at 1037. For the reasons described above, the
2 Republican Committees have failed to establish a cognizable, direct interest in this action. *See supra*
3 at 3–6.

4 In addition, permitting Republican Committees to intervene would flout the purposes of
5 intervention—which is to avoid “delay and multiplicity.” *Accurso v. In-N-Out Burgers*, 94 Cal.
6 App. 5th 1128, 1136 (2023). Here, there is no risk of duplicative litigation because the Republican
7 Committees merely seek to defend a statute that will already be defended by the Secretary. Instead,
8 permitting Republican Committees’ intervention will only enlarge the issues in the litigation by
9 introducing “unnecessary partisan politics into an otherwise nonpartisan legal dispute.” *Miracle v.*
10 *Hobbs*, 333 F.R.D. 151, 156 (D. Ariz. 2019) (cleaned up) (denying intervention to Republican
11 legislators). This is an appropriate basis on which to deny permissive intervention. *Id.*

12 **III. Ex parte relief is improper.**

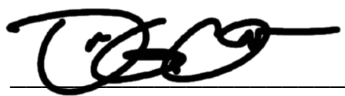
13 An ex parte application must be supported by “irreparable harm, immediate danger, or any
14 other statutory basis.” Cal. R. Ct. 3.1202. Here, the Republican Committees’ lone allegation is
15 merely that “Applicants runs the risk of not having their request to intervene resolved before the
16 Court hears substantive issues in the case.” Mem. at 8. For the reasons set forth above, the
17 Republican Committees allege nothing about irreparable harm or immediate danger that could
18 result from filing a properly noticed motion. This falls far short of the “affirmative factual showing”
19 required by Civil Rule 3.1202. “A trial court should deny an ex parte application absent the requisite
20 showing.” *People ex rel. Allstate Ins. Co. v. Suh*, 37 Cal. App. 5th 253, 257 (2019).

21 **CONCLUSION**

22 For the foregoing reasons, the Republican Committees’ ex parte application for leave to
23 intervene should be denied.
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Dated: July 16, 2024

By:  _____

QURESHI LAW PC
Omar Qureshi (Cal. Bar. No. 323493)
omar@qureshi.law
Max Schoening (Cal. Bar. No. 324643)
max@qureshi.law
700 Flower Street, Suite 1000
Los Angeles, CA 90017
Telephone: (213) 600-6096
Facsimile: (213) 277-8989

ELIAS LAW GROUP, LLP
Aria C. Branch*
abranh@elias.law
William K. Hancock*
whancock@elias.law
Renata C'Donnell*
rodonnell@elias.law
Tyler L. Bishop (Cal. Bar No. 337546)
tbishop@elias.law

Attorneys for Plaintiffs

*Pro hac vice application pending

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PROOF OF SERVICE

1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES)

3 I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years
4 and not a party to the within action. On the date herein below specified, I served the foregoing document
5 described as set forth below on the interested parties in this action by placing true copies thereof enclosed in
6 sealed envelopes addressed as indicated herein below.

7 DATE OF SERVICE : July 16, 2024

8 DOCUMENT(S) SERVED : PLAINTIFFS' OPPOSITION TO INTERVENTION

9 PARTIES SERVED : SEE ATTACHED SERVICE LIST

10 _____ (BY MAIL AS FOLLOWS): I placed the envelope for collection and processing for mailing
11 following this firm's ordinary practice with which I am readily familiar. On the same day
12 correspondence is placed for collection and mailing, they are deposited in the ordinary course of
13 business with the United States Postal Service.

14 _____ (VIA FACSIMILE): I sent via facsimile the above described documents to the offices of the
15 addressee(s) as indicated. The transmission was reported as successful immediately following
16 complete transmission.

17 _____ (VIA EMAIL): I caused above-referenced documents to be emailed to the addressee at the
18 following email addresses:

19 Said email was reported complete and without error.

20 XXX (VIA ELECTRONIC SERVICE): Pursuant to agreement by the parties, by electronically
21 transmitting the above document(s) via electronic mail, pursuant to court order or agreement by the
22 parties, to the persons at the electronic mail addresses listed on the attached Service List. To my
23 knowledge, the transmission was reported as complete and without error.

24 _____ (BY PERSONAL SERVICE): I caused to be delivered such envelope(s) by hand to the offices of
25 the addressee(s).

26 * * *

27 XXX (STATE): I declare under penalty of perjury under the laws of the State of California that the above
28 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 at Los Angeles, California on July 16, 2024.



Omar G. Qureshi

SERVICE LIST

Brian T. Hildreth,
bhildreth@bmhlaw.com

Attorneys for Proposed
Intervenors National
Republican Congressional
Committee, California
Republican Party,
Republican National
Committee

Thomas W. Hiltachk
thiltachk@bmhlaw.com

Katherine C. Jenkins
kjenkins@bmhlaw.com

Seth Goldstein
seth.goldstein@doj.ca.gov

Attorney for Defendant
and Respondent

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