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10 Attorneys for Petitioners Michael Sangiacomo
and Clean Coasts, Clean Water, Clean Streets:
11 Environmentalists, Recyclers, and
12 Farmers Against Plastic Pollution

13 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF SACRAMENTO

15 (UNLIMITED JURISDICTION)

16 MICHAEL SANGIACOMO and CLEAN
17 COASTS, CLEAN WATER, CLEAN STREETS:
18 ENVIRONMENTALISTS, RECYCLERS, AND
FARMERS AGAINST PLASTIC POLLUTION

19 Petitioners,

20 vs.

21 ALEX PADILLA, in his official capacity as
Secretary of State of the State of California,

22 Respondent.
23

FILED/ENDORSED

JUN 23 2020

By: H. Portalanza
Deputy Clerk

CASE NO.: 34-2020-80003413

Action Filed: June 23, 2020

**VERIFIED PETITION FOR WRIT OF
MANDATE [C.C.P. § 1085; ELECTIONS
CODE § 13314]**

**STATEWIDE ELECTION MATTER –
JULY 6, 2020 DEADLINE**

IMMEDIATE ACTION REQUESTED

Hearing:

Date: TBD
Time: TBD
Dept.: TBD
Judge: TBD

BY FAX

1 Petitioners MICHAEL SANGIACOMO AND CLEAN COASTS, CLEAN WATER,
2 CLEAN STREETS: ENVIRONMENTALISTS, RECYCLERS, AND FARMERS AGAINST
3 PLASTIC POLLUTION petition this Court pursuant to Elections Code section 13314 and Code of
4 Civil Procedure section 1085 for a writ of mandate commanding Respondent ALEX PADILLA, in his
5 official capacity as Secretary of State of the State of California to direct county officials to extend the
6 deadline for proponents of the "California Recycling and Plastic Pollution Reduction Act of 2020" (the
7 "Initiative") to submit signatures for qualification of the Initiative for the November, 2022 election.

8 Elections Code section 9014(b) requires that all signatures on a statewide initiative
9 petition must be filed with county elections officials within 180 days of the date on which the State
10 Attorney General issues the "title and summary" for circulation of the petition. In the case of the
11 Initiative, that date was January 8, 2020 and signatures would be due on or before July 6, 2020.
12 Because of the State's "stay-at-home" orders issued March 19, 2020 in response to the coronavirus
13 pandemic ("COVID-19), Petitioners were prevented from circulating the petition until the orders were
14 relaxed in May and continue to experience significant burdens on their ability to do in-person signature
15 gathering because of social distancing requirements. Petitioners therefore seek judicial relief because
16 the deadline provided in the Elections Code is unconstitutional as applied in combination with the
17 State's stay-at-home orders, in violation of article II, section 8 of the California Constitution and the
18 First and Fourteenth Amendments to the U.S. Constitution.

19 **INTRODUCTION**

20 The California Constitution provides for the circulation of an initiative petition to enact
21 a statute or constitutional amendment, but it contains no deadline for circulation of those petitions.
22 Cal. Const. art. II, § 8. The Legislature first imposed a 90-day deadline in 1943 and enlarged it over
23 time to the current 180-day limit in 2014. Cal. Elec. Code § 9014(b). The 180-day period begins
24 when proponents receive the attorney General's title and summary for the initiative petition;
25 proponents cannot circulate until that date and must submit all petitions to the county elections
26 officials at the same time. After the expiration of 180 days, county elections officials may no longer
27 accept the petition, forcing proponents to completely start over if they wish to pursue their measure.

1 Initiative. Clean Coasts, Clean Water, Clean Streets has been the entity primarily responsible for
2 qualifying that measure and obtaining signatures in support of qualification.

3 3. Respondent Alex Padilla is the Secretary of State of California and is sued
4 herein in his official capacity only. Respondent is responsible for supervising the conduct of elections
5 in California, advising the county elections officials, and certifying all initiatives that qualify for
6 consideration by the voters and placing qualifying measures on the ballot. Cal. Elec. Code § 9033.
7 Elections Code section 13314 requires the Secretary of State to be named as a respondent in this
8 proceeding.

9 **JURISDICTION AND VENUE**

10 4. This Court has jurisdiction over this action pursuant to Code of Civil Procedure
11 section 1085, which authorizes the issuance of a writ of mandate, and Elections Code section 13314,
12 which specifically authorizes writ relief when it is alleged that an error or omission or is about to occur
13 with respect to an official election matter or that a neglect of duty has occurred or is about to occur.

14 5. Elections Code section 13314 provides that Sacramento Superior Court is the
15 proper venue because the subject of the proceeding is a statewide measure. Cal. Elec. Code
16 § 13314(b)(1).

17 **PRIORITY MATTER**

18 6. Time is of the essence. In the absence of judicial relief suspending or extending
19 the 180-day deadline, elections officials will be prohibited from accepting Petitioners' Initiative after
20 July 6, 2020. Petitioners would have to completely start over and will have lost the time and resources
21 invested in the process to date. The will of more than 800,000 voters who signed the Initiative petition
22 will have been frustrated. Expedited scheduling of this writ proceeding is therefore both necessary and
23 appropriate.

24 **THE PEOPLE'S RIGHT OF INITIATIVE IN CALIFORNIA**

25 7. Article IV, section 1 of the California Constitution vests the legislative power of
26 the State in the Legislature, "but the people reserve to themselves the power of initiative and
27 referendum." Cal. Const. art. IV, § 1.
28

1 8. Article II, section 8(a) of the Constitution provides: “The initiative is the power
2 of electors to propose statutes and amendments to the Constitution and to adopt or reject them.” Cal.
3 Const. art. II, § 8(a).

4 9. The California Supreme Court has described the right to act by initiative as “one
5 of the most precious rights of our democratic power.” *Associated Home Builders of Greater Eastbay,*
6 *Inc. v. City of Livermore*, 18 Cal. 3d 582, 591 (1976). “[I]t has long been our judicial policy to apply a
7 liberal construction to this power wherever it is challenged in order that the right be not improperly
8 annulled.” *DaVita v. County of Napa*, 9 Cal. 4th 763, 776 (1995) (quoting *Associated Home Builders*).

9 10. Subdivision (b) of 8 of article II provides that “an initiative measure may be
10 proposed by presenting to the Secretary of State a petition that sets forth the text of the proposed
11 statute or amendment to the Constitution and is certified to have been signed by electors equal in
12 number to 5 percent in the case of a statute, and 8 percent in the case of an amendment to the
13 Constitution, of the votes for all candidates for Governor at the last gubernatorial election.” Cal.
14 Const. art. II, § 8(b).

15 11. This provision would currently require 623,212 signatures for a proposed statute
16 such as the Initiative. These numbers are unusually high this year because of record voter turnout at
17 the 2018 election.

18 12. Subdivision (c) of section 8 of article II requires the Secretary of State to submit
19 the measure to voters at the next general election at least 131 days after the measure has qualified or at
20 any special election held prior to the general election. Cal. Const. art. II, § 8(c).

21 13. Section 8 of article II does not limit the period during which a petition may be
22 circulated. Section 10 of article II provides that “[t]he Legislature shall provide for the manner in
23 which a petition shall be circulated, presented, and certified, and the manner in which a measure shall
24 be submitted to voters.” Cal. Const. art. II, § 10.

25 14. Elections Code section 9001 provides that proponents of a proposed initiative
26 measure shall submit the proposed measure to the State Attorney General before circulation. The
27 Attorney General shall post the proposed measure online and allow 30 days for public comment. Cal.
28 Elec. Code § 9002. A proposed measure may be amended within 5 days of the public review period.

1 15. Within 50 days of submission to the Attorney General, the Department of
2 Finance and Legislative Analyst must prepare a fiscal impact statement. Cal. Elec. Code § 9005.

3 16. Within 15 days of receiving the fiscal impact statement, the Attorney General
4 must prepare a "title and summary" that summarizes the measure's chief points. The date the title and
5 summary is issued to the proponents is called the "official summary date." Cal. Elec. Code § 9004.
6 The title and summary must be included in the petition (Cal. Elec. Code § 9008); circulation is not
7 permitted before the official summary date. Cal. Elec. Code § 9014(a).

8 17. Petition signatures must be filed with the county elections officials within
9 180 days of the official summary date, and petitions may not be accepted by county elections officials
10 after that date. Cal. Elec. Code § 9014(b). In the event of a holiday, petitions may be filed the
11 following business day. Cal. Elec. Code § 9014(d).

12 18. When the right of initiative was added to the Constitution in 1911, there were no
13 limits on the circulation period. A 90-day period was added in 1943 and gradually expanded over time
14 to the current 180-day period enacted in 2014.

15 19. If proponents submit petitions facially containing the number required, the
16 county elections officials use a random sampling technique to determine whether the petitions contain
17 sufficient valid signatures. If the random count confirms the validity of less than 110% of the sample,
18 the county officials must do a time-consuming individual examination of each signature. Cal. Elec.
19 Code § 9030. As a practical matter, proponents assume that they must obtain 110% and usually submit
20 more than this amount because there are always some signatures that are disqualified for various
21 reasons (e.g., the signer is not registered to vote).

22 20. In obtaining signatures on an initiative petition, each section of the petition must
23 contain the name of the person circulating the petition and a statement made under penalty of perjury
24 that the circulator personally witnessed each signature. In other words, in-person circulation is a
25 legally required aspect of the initiative process in California

1 **FEDERAL CONSTITUTIONAL PROTECTIONS FOR THE INITIATIVE PROCESS**

2 21. The First Amendment to the U.S. Constitution, applicable to the states through
3 the Fourteenth Amendment, provides that “Congress shall make no law . . . abridging the freedom of
4 speech, or of the press; or the right of the people to peaceably assemble, and to petition the government
5 for a redress of grievances.” U.S. Const. amend. I.

6 22. Although the U.S. Constitution does not require states to provide the right of
7 initiative, “a state that adopts an initiative procedure violates the federal Constitution if it unduly
8 restricts the First amendment rights of its citizens who support the initiative.” *Taxpayers United for*
9 *Assessment Cuts v. Austin*, 994 F.2d 291, 295 (6th Cir. 1993).

10 23. Several federal courts have recently held that various state requirements for
11 petitions in support of initiatives or candidates were unconstitutional as applied in light of state stay-at-
12 home orders similar to that of California. *See, e.g., Esshaki v. Whitmer*, Case No. 2:20-CV-10831-
13 TGB (E. Dist. Mich. 4/20/20 Order Granting Preliminary Injunction)(aff’d in part, rev’d in part as to
14 remedy in *Esshaki v. Whitmer*, Case No. 20-1336 (6th Cir.)); *Miller v. Thurston*, Case No. 5:20-CV-
15 05070 (W. Dist. Ark. 5/25/20 Order); *Thompson v. DeWine*, Case No. 2:20-CV-2129 (S. Dist. Ohio
16 5/19/20 Order) (stayed pending appeal in *Thomson v. DeWine*, Case No. 203526 (6th Cir.)).

17 **THE PROPOSED INITIATIVE AT ISSUE**

18 24. On November 4, 2020 a proposed initiative statute was filed with the State
19 Attorney General entitled the “California Recycling and Plastic Pollution Reduction Act of 2020” (the
20 “Initiative”). Proponents included Michael Sangiacomo, Caryl Hart, and Linda Escalante.

21 25. The proposed Initiative would require CalRecycle to adopt regulations to reduce
22 plastic waste by requiring that single-use plastic packaging be reusable, recyclable, or compostable by
23 the year 2030. The Initiative would further prohibit polystyrene container use by food vendors.
24 Finally, the Initiative would impose a tax on producers of single-use plastic packaging, containers or
25 utensils. Funds derived from the tax would be deposited into a new special fund, which is allocated for
26 recycling and environmental programs, including local water supply protection.
27
28

1 26. Title and summary for the Initiative was received January 8, 2020, the “official
2 summary date.”

3 27. Pursuant to Elections Code section 9014, because the Initiative is a proposed
4 statutory amendment, petitions containing 623,212 valid signatures would be required to be submitted
5 on or before July 6, 2020. In order to qualify under the random sample requirements, 685,534 valid
6 signatures would be required.

7 **COVID-19 AND THE STATE’S ACTIONS IN RESPONSE**

8 28. On January 30, 2020, the World Health Organization declared the outbreak of a
9 new coronavirus, COVID-19, a global public health emergency. On the same date, the U.S. Center for
10 Disease Control and Prevention (“CDC”) announced that COVID-19 had spread to the United States.

11 29. On February 26, 2020, CDC announced the first potential person-to-person
12 transmission of COVID-19 in California.

13 30. On March 4, 2020, Gov. Gavin Newsom proclaimed a state of emergency in
14 California.

15 31. On March 16, 2020, six Bay Area counties (Alameda, Contra Costa, Marin,
16 Santa Clara, San Francisco, and San Mateo) issued orders directing all individuals living in those
17 counties to shelter at their place of residence, with certain exceptions for providing or receiving
18 essential services and engaging in certain essential activities.

19 32. On March 19, 2020, Gov. Newsom issued Executive Order N-33-20, which
20 ordered “all individuals living in the State of California to stay home or at their place of residence
21 except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as
22 outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>.” Election-related
23 activities were not designated as “essential” and were therefore prohibited.

24 33. On May 4, 2020, Gov. Newsom issued Executive Order N-60-20, which
25 announced that the State would be moving toward “stage 2” of a four-stage re-opening plan in
26 accordance with guidelines to be released by public health authorities. However, the Order also
27 allowed counties to maintain more restrictions in place.

1 34. On May 7, 2020, the State Public Health Office announced that all counties
2 could move to “stage 2,” which allows for limited re-opening of some businesses provided the
3 businesses and patrons continue to practice safe-distancing and other hygiene measures. The order
4 also provides for the gradual re-opening of additional businesses in counties when it is determined that
5 they are eligible to move to “expanded stage 2.”

6 35. On May 7, 2020, Gov. Newsom issued Executive Order N-63-20, which
7 suspended or extended numerous statutory and regulatory deadlines by 60 days, stating that “the
8 COVID-19 pandemic, as well as physical distancing and other public health measures undertaken in
9 response to it, have also had widespread impacts on state and local governments’ ability to perform
10 certain functions via in-person interactions” The May 7 order did not suspend or extend any of
11 the election-related deadlines applicable to the qualification of initiatives.

12 36. On May 8, 2020, the Governor issued Executive Order N-64-20, which directed
13 that mail ballots be mailed to all California voters in connection with the November 3, 2020 general
14 election in order to avoid the potential health risks that might be associated with in-person voting.

15 37. Over the course of May, 2020, most counties moved to the “expanded stage 2.”
16 On June 5, 2020, the state announced that it was releasing guidelines for counties to begin moving to
17 stage 3 starting June 12, 2020, allowing for such businesses as bars and gyms to reopen. However,
18 several counties (San Francisco, Alameda, Contra Costa, Marin, Santa Clara and Imperial) are still
19 operating under the early stage 2 restrictions and have not been cleared for expanded stage 2.

20 38. As a practical matter, both early and expanded stage 2, as well as early stage 3,
21 contain significant restrictions on commercial activity and in-person communications. Many retail
22 businesses continue to operate on a pick-up basis (rather than walk-in) and many other retail locations
23 remain closed. Large gatherings remain prohibited.

24 **THE IMPACT OF THE STATE’S ACTIONS ON PETITIONERS’**
25 **EXERCISE OF THEIR RIGHT TO ACT BY INITIATIVE**

26 39. Upon receiving the title and summary from the Attorney General on January 8,
27 2020, proponents of the Initiative immediately directed the Monaco Group, a printing and direct mail
28

1 production company, to format and print copies of the initiative petition for circulation throughout the
2 state.

3 40. On or about January 10, 2020 the signature gathering firm 2020 BallCamp, LLC
4 and its agents began collecting voters' signatures, in person, to qualify the Initiative. At that point, the
5 goal was to qualify for the November 2020 ballot.

6 41. From January 10 until mid-March 2020, proponents collected approximately
7 789,943 signatures on the initiative petition. Although proponents needed to submit 685,534
8 signatures to reach the 110% threshold for qualification using the random sample technique,
9 proponents set an internal goal of approximately 950,000 to 1,000,000 signatures in order to account
10 for any found invalid. Professional signature gathering firms generally advise that campaigns need to
11 collect at least 30% more than the required number of signatures to account for signatures that will be
12 found invalid. Duplicate signatures, illegible handwriting, non-registered voters, and voters who are
13 registered at a different address than the one listed on the petition are some of the most common
14 reasons that signatures are invalidated.

15 42. On March 16, 2020 the six Bay Area counties announced their shelter-in-place
16 or stay-at-home orders, and this was extended to the rest of the State on March 19, 2020. As a result of
17 these statewide and local stay-at-home orders, non-essential businesses around the state were required
18 shut down and public gatherings and events were canceled. Because the stay-at-home orders did not
19 identify any in-person election-related activities as critical infrastructure, such activities were
20 prohibited in the Bay Area commencing March 16, 2020 and statewide commencing March 19, 2020.

21 43. Most campaigns seeking to qualify an initiative for a November election
22 typically gather fewer signatures in January and February because of less favorable weather and fewer
23 hours of daylight. Once the time change occurs in March, the ability of circulators to gather signatures
24 increases. Because campaigns typically collect the most signatures in March and early April, the
25 shutdown orders came at the worst possible time for the Initiative proponents.

26 44. Much of the state remains under stage 2 restrictions; some have moved to
27 Stage 3, but five of the Bay Area counties continue under the more restrictive Stage 2 guidelines.
28

1 45. While stay-at-home restrictions have loosened in some counties in recent weeks
2 and more businesses have been permitted to open, collecting signatures remains a challenge because of
3 the physical distancing requirements. Gathering signatures for a petition requires the ability for
4 circulators to come into close contact with individual voters. Circulators generally need to be closer to
5 voters than six feet in order to hand them a copy of the measure to review, answer questions, instruct
6 the voter where to sign the actual petition, and properly witness the voter signing the petition.

7 46. Signature gathering also relies on taking the petitions to places where the public
8 congregates. Many businesses remain closed and all large, public gatherings are still canceled.
9 Because of public health concerns, even in places where circulators could collect signatures, voters
10 remain reluctant to speak with circulators and sometimes verbally abuse circulators for attempting to
11 collect signatures.

12 47. The COVID-19 restrictions have also made it difficult to maintain the same
13 level of circulators because a number of circulators are observing the stay-at-home orders and are
14 reluctant to continue circulating petitions because of concern for their own health. The number of
15 available circulators dropped to approximately 10% of the previous workforce once the stay-at-home
16 orders went into effect.

17 48. In addition to the restrictions that the stay-at-home orders have imposed on the
18 actual collection of signatures, the stay-at-home orders also impeded the ability of the signature
19 gathering companies to verify previously obtained signatures, an important part of the process. The
20 orders have prevented signature verification workers from continuing to work because this is typically
21 done in small, rented offices that do not meet the social distancing requirements.

22 49. In addition, the orders have also prevented those responsible for verification
23 from accessing county voter files that are necessary for the verification process as several county
24 election offices have been closed for in-person operations following the stay-at-home orders. The
25 elections offices in five of the ten most populous counties (Los Angeles, Orange, San Diego,
26 Riverside, and Fresno) remain closed to the public. If you cannot accurately verify signatures and
27 eliminate invalid ones, it requires proponents to obtain even more signatures at additional time and
28 cost.

1 50. Alternatives to in-person signature gathering such as mail or email are costly
2 and not practical.

3 51. But for the state and local stay-at-home orders in response to COVID-19, the
4 Initiative would undoubtedly have obtained the necessary number of signatures by July 6, 2020.
5 Before those orders went into effect, proponents were obtaining approximately 90,000-110,000
6 signatures per week and expected to reach their goal on or before the end of April, 2020.

7 52. Petitioners have acted diligently to comply with all the applicable requirements.
8 To date, they have spent more than \$3.5 million on signature gathering efforts and obtained over
9 800,000 signatures. These costs and efforts will be rendered useless if proponents cannot complete
10 circulation and are forced to begin the process anew. While Petitioners currently have collected in
11 excess of the required number of signatures, at least 30% of signatures collected are typically
12 invalidated by elections officials for various reasons, and Petitioners have not collected a sufficient
13 number of signatures to ensure the measure will qualify once invalid signatures removed. If
14 Petitioners are unable to qualify because they cannot collect enough signatures ensure qualification
15 once invalid signatures are accounted for, the will of over 800,000 voters who have already signed the
16 Initiative petition would be frustrated.

17 53. With stay-at-home orders in place for at least one-half and perhaps two-thirds of
18 the statutory circulation period, it is virtually impossible to qualify any measure for the ballot as the
19 total number of necessary signatures would have to be obtained in approximately two months. In the
20 absence of a suspension or extension of the 180-day deadline, the combination of that deadline with
21 the stay-at-home orders constitutes an unreasonable burden that deprives the Initiative proponents and
22 supporters of a meaningful opportunity to meet the numerical goals set by the Constitution.

23 54. Strict enforcement of the 180-day deadline in the present circumstances would
24 be unconstitutional and would therefore constitute an error or omission or a neglect of duty as
25 described in Elections Code section 13314.

26 55. The Constitution requires measures to be placed on the ballot at least 131 days
27 before the next general election. Cal. Const. art. II, § 8(c). For November 2020, this means prior to
28 June 25. Under the current circumstances, it would not be possible for proponents to meet this

1 deadline. If the 180-day deadline is suspended or extended, and the Initiative obtains the required
2 number of signatures, it would therefore be placed on the November 2022 ballot – the next general
3 election. Cal. Elec. Code § 9033; *see also* Cal. Elec. Code §§ 9016, 9017. As a result, suspension or
4 extension of the deadline would not interfere with the duties of the Respondent or the county elections
5 officials and would not interfere with the conduct of the November 2020 election in any way.

6 56. Petitioners are beneficially interested in the issuance of a writ of mandate and
7 have no other speedy or adequate remedy at law.

8 57. Petitioners are currently under a statutory duty to file their petition signatures on
9 or before July 6, 2020 notwithstanding state and local stay-at-home orders that have already prohibited
10 circulation of the Initiative petition for approximately three of the six months afforded under Elections
11 Code section 9014, and which continue in effect. In the absence of immediate judicial intervention
12 suspending or extending that date, county election officials will be prohibited from accepting the
13 Initiative petitions after that date, Petitioners will be prohibited from further circulation of their
14 Initiative, and Petitioners and Initiative supporters will thereby be prevented from exercising their right
15 to propose an initiative as guaranteed by the California Constitution.

16 **FIRST CAUSE OF ACTION**
17 **(California Constitution Article II, Section 8)**

18 58. Petitioners incorporate Paragraphs 1 through 57 above.

19 59. Petitioners have acted diligently in attempting to comply with all legal
20 requirements and believe they would have met all such requirements, including the 180-day deadline
21 of Elections Code section 9014(b), but for the restrictions imposed upon them by the stay-at-home
22 orders issued by the State and local governments in response to COVID-19.

23 60. The current provisions of Elections Code section 9014(b) are unconstitutional
24 and unenforceable as applied in light of the state and county stay-at-home orders issued in response to
25 the COVID-19 pandemic as those provisions deprive Petitioners of their right to propose legislation by
26 initiative as provided in article II, section 8 of the California Constitution.

27 61. Respondent Padilla and those public officers acting by and through his authority
28 have a clear, present and ministerial duty to refrain from taking action to implement or enforce

1 provisions of law in violation of the Constitution and to take such action as is necessary to allow
2 Petitioners to exercise the right of initiative provided in article II, section 8 and article I, sections 2
3 and 3 of the California Constitution.

4 62. Petitioners seek a peremptory writ of mandate pursuant to Code of Civil
5 Procedure section 1085 and Elections Code section 13314 to compel Respondent Padilla and those
6 public officers acting by and through his authority to refrain from taking action to implement or
7 enforce provisions of law in violation of the Constitution and to take such action as is necessary to
8 allow Petitioners to exercise the right of initiative provided in article II, section 8 and article I,
9 sections 2 and 3, of the California Constitution.

10 **SECOND CAUSE OF ACTION**
11 **(U.S. Constitution, First and Fourteenth Amendments)**

12 63. Petitioners incorporate Paragraphs 1 through 62 above.

13 64. The current provisions of Elections Code section 9014(b) are unconstitutional
14 and unenforceable as applied light of the state and county stay-at-home orders issued in response to the
15 COVID-19 pandemic as those provisions deprive petitioners of their rights under the First Amendment
16 to the U.S. Constitution, applicable to the states through the Fourteenth Amendment.

17 65. Respondent Padilla and those public officers acting by and through his authority
18 have a clear, present and ministerial duty to refrain from taking action to implement or enforce
19 provisions of law in violation of the First Amendment to the U.S. Constitution, applicable to the states
20 through the Fourteenth Amendment and to take such action as is necessary to allow Petitioners to
21 exercise their rights under the First and Fourteenth Amendments to the U.S. Constitution.

22 66. Petitioners seek a peremptory writ of mandate pursuant to Code of Civil
23 Procedure section 1085 and Election Code section 13314 to compel Respondent Padilla and those
24 public officers acting by and through his authority to refrain from taking action to implement or
25 enforce provisions of law in violation of the First and Fourteenth Amendments to the U.S. Constitution
26 and to take such action as is necessary to allow Petitioners to exercise their rights under the First and
27 Fourteenth Amendments to the U.S. Constitution.

1 **PRAYER**

2 WHEREFORE, Petitioners pray that this Court:

- 3 1. Set this matter for hearing on an expedited basis at the earliest time consistent
4 with its calendar;
- 5 2. Issue a peremptory writ of mandate commanding respondent Padilla to suspend
6 the 180-day deadline set forth in Elections Code section 9014(b) for a period beginning March 19,
7 2020 and extending until all counties in the State have been authorized to move to stage 3 of the
8 COVID-19 re-opening guidelines or, alternatively, that the 180-day period set forth in elections code
9 section 9014(b) be extended for a period of not less than 90 days;
- 10 3. Award Petitioners' attorneys' fees and costs incurred in connection with this
11 matter; and
- 12 4. Order such other and further relief as it deems just and proper.

13 Dated: June 23, 2020

Respectfully submitted,

14 **OLSON REMCHO, LLP**

15
16 By: 

17 **Deborah B. Caplan**

18 **Attorneys for Petitioners Michael Sangiacomo**
19 **and Clean Coasts, Clean Water Clean Streets:**
20 **Environmentalists, Recyclers and Farmers Against**
21 **Plastic Pollution**


VERIFICATION

I, Deborah B. Caplan, declare as follows:

I am counsel for the Petitioners in the above-captioned case. None of the individual petitioners resides in the County of Sacramento so I make this verification on their behalf as provided in Code of Civil Procedure section 446. I have read the foregoing Petition for Writ of Mandate and know its contents. The facts stated therein are true and within my personal knowledge, except those matters which are alleged upon information and belief, and as to those matters, I believe them to be true.

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

Executed on June 23, 2020, at Sacramento, California.



Deborah B. Caplan

1 **PROOF OF SERVICE**

2 I, the undersigned, declare under penalty of perjury that:

3 I am a citizen of the United States, over the age of 18, and not a party to the within
4 cause of action. My business address is 1901 Harrison Street, Suite 1550, Oakland, CA 94612.

5 On June __, 2020, I served a true copy of the following document(s):

6 **Verified Petition for Writ of Mandate**

7 on the following party(ies) in said action:

8 Steven Reyes?

Attorneys for Respondent Secretary of State
9 Alex Padilla

- 10 **BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed
envelope or package addressed to the person(s) at the address above and
- 11 depositing the sealed envelope with the United States Postal Service, with
12 the postage fully prepaid.
- 13 placing the envelope for collection and mailing, following our ordinary
14 business practices. I am readily familiar with the business's practice for
collecting and processing correspondence for mailing. On the same day
15 that correspondence is placed for collection and mailing, it is deposited in
the ordinary course of business with the United States Postal Service,
16 located in Oakland, California, in a sealed envelope with postage fully
prepaid.
- 17 **BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope
or package provided by an overnight delivery carrier and addressed to the persons
18 at the addresses listed. I placed the envelope or package for collection and
overnight delivery at an office or a regularly utilized drop box of the overnight
19 delivery carrier.
- 20 **BY MESSENGER SERVICE:** By placing the document(s) in an envelope or
package addressed to the persons at the addresses listed and providing them to a
21 professional messenger service for service.
- 22 **BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons
at the fax numbers listed based on an agreement of the parties to accept service by
23 fax transmission. No error was reported by the fax machine used. A copy of the
fax transmission is maintained in our files.
- 24 **BY EMAIL TRANSMISSION:** By emailing the document(s) to the persons at
the email addresses listed based on a court order or an agreement of the parties to
25 accept service by email. No electronic message or other indication that the
transmission was unsuccessful was received within a reasonable time after the
26 transmission.

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I declare, under penalty of perjury, that the foregoing is true and correct. Executed on,
June 23, 2020 in Kings Beach, California.

Nina Leathley

(00412970)