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Project, Inc.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE**

ELECTION ACCOUNTABILITY PROJECT,
INC., a California nonprofit corporation,

Petitioner and Plaintiff,

v.

ART TINOCO, in his official capacity as
Riverside County Registrar of Voters;
COUNTY OF RIVERSIDE; and DOES 1
through 20, inclusive,

Respondents and Defendants.

Case No. _____

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF TO COMPEL COMPLIANCE
WITH CALIFORNIA'S MANDATORY
ELECTION RECONCILIATION
REQUIREMENTS AND TO PRESERVE
EVIDENCE NECESSARY FOR THEIR
ENFORCEMENT**

(Code Civ. Proc., §§ 1085, 1060, 526)

**Application for Temporary Restraining
Order and Order to Show Cause Re
Preliminary Injunction Filed Concurrently**

INTRODUCTION

1. This action does not seek to overturn, decertify, or otherwise alter the result of any past election.

2. Petitioner does not ask this Court to determine that any candidate was improperly elected, that any ballot was unlawfully counted, or that the certified result of either of the elections discussed in this Petition was incorrect.

3. This action instead concerns a distinct and ongoing obligation imposed by California law: the mandatory reconciliation of ballots and election records as part of the official canvass of every election.

1 4. California Elections Code section 15302 requires the official canvass to include,
2 among other things, reconciliation of the number of signatures on voter rosters with ballot
3 statements; reconciliation of ballots received with ballots cast when a discrepancy appears; and
4 reconciliation of ballots counted, spoiled, canceled, invalidated, and otherwise accounted for with
5 the votes recorded by the vote-counting system, including vote-by-mail and provisional ballots.

6 5. Those reconciliation requirements provide an essential means of determining
7 whether the number of ballots entering, passing through, and ultimately counted by an election
8 system can be accounted for.

9 6. Publicly available election records concerning Riverside County's November 5,
10 2024 General Election reveal a substantial unexplained variance between the number of ballots
11 reported as counted and the number of ballots reflected as received in the County's publicly
12 available ballot-accounting records.

13 7. A materially similar unexplained variance appears in records from the subsequent
14 November 4, 2025 Statewide Special Election concerning Proposition 50 (the "2025 Special
15 Election"), conducted by the same elections office.

16 8. The recurrence of substantially similar accounting variances in successive elections
17 raises a reasonable and important question whether the County's existing reconciliation procedures
18 are functioning as required by Elections Code section 15302.

19 9. Petitioner does not presently allege that the variances resulted from fraud, illegal
20 voting, or intentional misconduct. The variances may have an entirely innocent explanation. They
21 may result from differences in reporting methodology, clerical errors, incomplete data, timing
22 differences, classification of ballots, or some other benign cause.

23 10. But the statutory reconciliation process exists precisely to identify and resolve
24 discrepancies in ballot accounting rather than leave them unexplained.

25 11. Nor may the required reconciliation be accomplished by confirming only that the
26 electronic records generated by the vote-counting system agree among themselves. The physical
27 ballot-accounting records created as ballots are received and processed — ballot statements,
28 collection forms, mail-intake records, and rosters — exist as an independent check upon the totals

1 produced by that system. Where those records conflict with the reported totals, a reconciliation
2 must account for and explain the conflict; it may not resolve the discrepancy by disregarding one
3 side of the comparison.

4 12. Determining the cause of the recurring variances requires examination and
5 reconciliation of the underlying election records.

6 13. Those records presently exist. They are in Respondents' possession, custody, or
7 control, or — in the case of certain 2025 Special Election materials presently held under interim
8 orders entered in separate pending proceedings described below — are subject to return to
9 Respondents' custody upon the conclusion of those proceedings.

10 14. They will not exist indefinitely. Records from the November 2024 General Election
11 are approaching the end of the applicable federal twenty-two-month retention period, and
12 Petitioner is informed and believes that at least some of those records are scheduled or eligible for
13 destruction beginning on or about September 5, 2026.

14 15. Records from the 2025 Special Election stand in even greater jeopardy. Because no
15 candidate for federal office appeared on that ballot, the shorter six-month retention period
16 prescribed by Elections Code section 17302 applies, and that period expired on or about May 4,
17 2026. The ballots and related materials from that election presently exist only because of interim
18 preservation orders entered in separate litigation to which Petitioner is not a party. Upon the final
19 determination of those proceedings, destruction of the 2025 Special Election records could
20 commence immediately.

21 16. Once those records are destroyed, the ability to determine conclusively whether the
22 observed variances are merely reporting artifacts or instead reflect a deficiency in the County's
23 ballot-accounting or reconciliation procedures will be permanently lost.

24 17. That loss will affect more than Petitioner's ability to understand what occurred in
25 2024 and 2025. If the recurring variance reflects a deficiency in the County's existing election
26 procedures, destruction of the records necessary to identify its cause will prevent that deficiency
27 from being identified and corrected before future elections conducted under the same or
28 substantially similar procedures.

1 18. Petitioner is a nonprofit organization whose members include Riverside County
2 electors who intend to vote in future elections administered by Respondent Registrar. It seeks
3 prospective relief ensuring that those elections are administered pursuant to the mandatory ballot-
4 reconciliation safeguards enacted by the Legislature.

5 19. Petitioner ultimately seeks a reconciliation sufficient to account for and explain the
6 identified variances and, if that reconciliation identifies a recurring deficiency in Respondents'
7 election procedures, prospective correction of that deficiency. The immediate relief sought is
8 narrower: preservation of the underlying records so that the required reconciliation remains
9 possible.

10 20. Preservation does not change a single vote or election result. It merely prevents
11 potentially irreplaceable evidence from being destroyed before the continuing controversy
12 concerning compliance with California's mandatory reconciliation requirements can be resolved.

13 21. The public interest strongly favors that result. If the variances have an innocent
14 explanation, reconciliation of the underlying records will demonstrate it. If they reveal a
15 correctable weakness in the County's election-administration procedures, identifying that
16 weakness before future elections serves voters, election officials, and the integrity of the electoral
17 process alike.

18
PARTIES

19 22. Petitioner ELECTION ACCOUNTABILITY PROJECT, INC. ("EAP") is a
20 California nonprofit corporation and a tax-exempt social welfare organization described in section
21 501(c)(4) of the Internal Revenue Code. EAP's purposes include promoting transparency,
22 accountability, and legal compliance in the administration of elections. EAP's members include
23 registered Riverside County electors who voted in the November 2024 General Election and the
24 2025 Special Election and who intend to vote in future elections administered by the Riverside
25 County Registrar of Voters. The interests this action seeks to protect are germane to EAP's
26 purposes, and neither the claims asserted nor the relief requested requires the participation of
27 EAP's individual members. James R. Niederecker, a member of EAP's Board of Directors, is
28 authorized to act for EAP in connection with this action and verifies this Petition on EAP's behalf.

1 23. Respondent ART TINOCO is the Riverside County Registrar of Voters (the
2 "Registrar"), the county elections official responsible for conducting elections in Riverside
3 County, performing the official canvass, maintaining election records, and performing the duties
4 imposed upon county elections officials by the California Elections Code. He is sued in his official
5 capacity only.

6 24. Respondent COUNTY OF RIVERSIDE is a political subdivision of the State of
7 California and is responsible for the operation and administration of the Riverside County
8 Registrar of Voters.

9 25. Petitioner is ignorant of the true names and capacities of Respondents sued herein
10 as DOES 1 through 20 and therefore sues those Respondents by fictitious names. Petitioner will
11 amend this Petition to allege their true names and capacities when ascertained.

12
JURISDICTION AND VENUE

13 26. This Court has jurisdiction to issue a writ of mandate under Code of Civil
14 Procedure section 1085 compelling a public official to perform an act specifically required by law.

15 27. This Court has jurisdiction under Code of Civil Procedure section 1060 to declare
16 the rights and duties of the parties with respect to Respondents' obligations under the Elections
17 Code. Declaratory relief may be maintained against counties and other political subdivisions of the
18 State where the action seeks determination of legal rights or duties otherwise subject to judicial
19 determination. *Hoyt v. Board of Civil Service Commissioners* (1942) 21 Cal.2d 399, 403–405;
20 *California Physicians' Service v. Garrison* (1946) 28 Cal.2d 790, 800–801.

21 28. This Court has authority under Code of Civil Procedure section 526 and its
22 equitable powers to issue temporary, preliminary, and permanent injunctive relief necessary to
23 preserve the status quo and prevent destruction of records essential to effective judicial relief.

24 29. Venue is proper in Riverside County because Respondents reside and perform their
25 official duties in Riverside County; the records at issue are maintained in Riverside County; the
26 elections at issue were administered in Riverside County; and the acts and omissions giving rise to
27 this action occurred in Riverside County.

1 **CALIFORNIA'S MANDATORY BALLOT-RECONCILIATION REQUIREMENTS**

2 30. California law requires a county elections official to conduct both a semifinal
3 official canvass and an official canvass.

4 31. Elections Code section 15150 provides that, for every election, the elections official
5 "shall conduct a semifinal official canvass by tabulating vote by mail and precinct ballots and
6 compiling the results."

7 32. The official canvass thereafter requires substantially more than simply adding the
8 reported vote totals.

9 33. Elections Code section 15302 expressly provides that the official canvass "shall
10 include, but not be limited to," a series of specified tasks.

11 34. Section 15302, subdivision (b), requires:

12 "A reconciliation of the number of signatures on the roster with the number
13 of ballots recorded on the ballot statement."

14 35. Section 15302, subdivision (c), further requires that, "[i]n the event of a
15 discrepancy" in that reconciliation:

16 "the number of ballots received from each polling place shall be reconciled
17 with the number of ballots cast, as indicated on the ballot statement."

18 36. Section 15302, subdivision (d), separately requires:

19 "A reconciliation of the number of ballots counted, spoiled, canceled, or
20 invalidated due to identifying marks, overvotes, or as otherwise provided by
21 statute, with the number of votes recorded, including vote by mail and
22 provisional ballots, by the vote counting system."

23 37. These provisions establish a mandatory ballot-accounting process intended to
24 determine whether the ballots entering and passing through the election system reconcile with the
25 ballots ultimately recorded by the vote-counting system.

26 38. Each reconciliation the statute requires runs between records of different kinds:
27 signatures on rosters against ballot statements (subd. (b)); ballots received against ballots cast as
28 indicated on ballot statements (subd. (c)); and ballots counted, spoiled, canceled, invalidated, and
otherwise accounted for against the votes recorded by the vote-counting system (subd. (d)).

 39. The premise of that structure is that the physical ballot-accounting records created
as ballots are received and processed — rosters, ballot statements, vote-by-mail collection forms,

1 mail-intake records, and similar documents — serve as an independent check upon the totals
2 produced by the electronic vote-counting system. A comparison confined to records generated by
3 the vote-counting system itself, each of which may be internally consistent with the others,
4 performs no such check.

5 40. Accordingly, an elections official does not perform the reconciliation required by
6 section 15302 by confirming that electronic tabulation records agree among themselves while
7 disregarding conflicting physical ballot-accounting records. Where the physical records conflict
8 with the reported totals, the reconciliation must account for and explain the conflict.

9 41. Petitioner does not contend that section 15302 prescribes any particular
10 reconciliation methodology, and it does not ask this Court to impose one. Whatever methodology
11 the elections official employs, however, must address the categories of records the statute
12 identifies and must account for and explain material conflicts among them, rather than resolve a
13 discrepancy by reference to one internally consistent set of records alone.

14 42. Other provisions of the Elections Code reinforce the Legislature's insistence upon
15 accurate accounting.

16 43. Elections Code section 15251 requires the elections official, upon receipt of
17 precinct results, either to compile and make those results available to the public or to compare
18 those results to those provided publicly by the central tabulation or tally system.

19 44. Elections Code section 15278 requires the elections official, upon completion of
20 the canvass, to compare the vote-by-mail voters list with the roster for each precinct to determine
21 whether any voter cast more than one ballot.

22 45. Elections Code sections 15303 and 15304 provide mechanisms for resolving
23 incomplete, ambiguous, unauthenticated, or otherwise defective election materials, including
24 examination under oath of precinct officials concerning the manner in which votes were counted
25 and correction of errors or omissions.

26 46. The statutory scheme thus contemplates not merely counting ballots but accounting
27 for them and resolving discrepancies and defects revealed during the canvass.

28

1 47. The importance of these duties is further reflected in Elections Code sections 15371
2 and 15372, which characterize specified duties associated with completing and certifying election
3 results as "ministerial and nondiscretionary."

4 48. The Legislature therefore has not left county elections officials free to dispense
5 with required reconciliation procedures as a matter of discretion.

6 **THE UNEXPLAINED VARIANCE IN THE 2024 GENERAL ELECTION**

7 49. Riverside County conducted the November 5, 2024 General Election.

8 50. Following the election, the Registrar certified the results and published election
9 information and ballot-accounting data.

10 51. The Riverside Election Integrity Team ("REIT"), a private citizens organization
11 that examines publicly available election data, subsequently compared Riverside County's
12 reported ballot totals with the County's records reflecting ballots received.

13 52. That analysis identified an unexplained variance between the number of ballots
14 reported as counted in the November 2024 General Election and the number of ballots reflected as
15 received and deemed legally valid in the records examined.

16 53. Specifically, County records reflect 959,098 ballots counted, while 925,210 ballots
17 are reflected as received and deemed legally valid, producing a variance of 33,888 ballots.

18 54. The County records used in the audit included: vote-by-mail ("VBM") ballots
19 received from the United States Postal Service ("USPS") as recorded on tally sheets; VBM ballots
20 deposited in drop boxes as recorded on VBM Collection Forms and Vote Center Ballot
21 Statements; conditional and in-person ballots cast at vote centers as recorded on Ballot Statements;
22 and ballots received by facsimile as reported by the Registrar's Public Information Officer. Ballots
23 received but not counted due to discrepancies (e.g., signature not verified and cured) were
24 accounted for on the "Challenged Returns by Issue Code" report. The number of ballots counted
25 was derived from the County's website, VoteInfo.net, where certified results are posted.

26 55. The audit reconciliation was completed by first adding the counts of ballots from
27 the various records and then deducting the ballots not eligible to be counted (i.e., challenged
28

1 ballots) to determine the number of ballots cast. That figure was then compared with the number
2 of ballots counted. The result revealed 33,888 more ballots counted than cast.

3 56. A copy of REIT's audit report for the November 2024 General Election is attached
4 as Exhibit A and incorporated by reference.

5 57. The variance is sufficiently substantial that Petitioner seeks to determine its cause.

6 58. Petitioner does not allege merely from the existence of the variance that ballots
7 were unlawfully counted or that the certified result of any contest was incorrect.

8 59. Rather, the variance presents the kind of ballot-accounting question that
9 California's mandatory reconciliation procedures are designed to answer.

10 60. The publicly available records do not themselves provide a sufficient explanation
11 for the variance.

12 61. The underlying records necessary to perform or verify a complete reconciliation
13 remain within Respondents' possession, custody, or control.

14 **THE RECURRENCE OF A SIMILAR VARIANCE IN THE 2025 SPECIAL ELECTION**

15 62. Riverside County subsequently administered the 2025 Special Election, the
16 November 4, 2025 statewide special election concerning Proposition 50. No candidate for federal
17 office — or for any office — appeared on that ballot.

18 63. REIT performed a similar analysis of publicly available records from that election.

19 64. That analysis again identified an unexplained variance between ballots reported as
20 counted and ballots reflected as received in the records examined.

21 65. Specifically, the audit revealed 45,896 more ballots counted than cast. The number
22 of ballots counted as reported by the County was 657,322. The number of ballots cast, after
23 accounting for 16,376 challenged ballots, was 611,426.

24 66. The County records used in the audit included: VBM ballots received from the
25 USPS as recorded on Daily Mail In-Take tally sheets; VBM ballots deposited in drop boxes as
26 recorded on VBM Collection Forms and Vote Center Ballot Statements; conditional, provisional,
27 and in-person ballots cast at vote centers as recorded on Ballot Statements; and ballots received by
28 facsimile and confidential ballots as reported by the Registrar's Public Information Officer.

1 Ballots received but not counted due to discrepancies (e.g., signature not verified and cured) were
2 accounted for on three reports: the "Cumulative Ballots Returned by Voting Precinct" report, the
3 "Provisional Ballot Statistics" report, and the "Conditional Voter Registration Ballot Statistics"
4 report. The number of ballots counted was derived from the County's website, VoteInfo.net,
5 where certified results are posted.

6 67. The audit reconciliation was completed in the same manner as the audit of the
7 November 2024 General Election. The result revealed 45,896 more ballots counted than cast. A
8 copy of REIT's audit report for the 2025 Special Election is attached as Exhibit B and
9 incorporated by reference.

10 68. The appearance of a materially similar variance in a second election administered
11 by the same elections office is significant.

12 69. A variance in a single election might be attributable to an isolated clerical error, a
13 particular reporting convention, or some other one-time circumstance.

14 70. Recurrence of a materially similar variance in successive elections conducted under
15 the same or substantially similar administrative procedures raises a reasonable question whether
16 the variance results from a recurring feature of Riverside County's ballot-accounting or
17 reconciliation process.

18 71. Again, Petitioner does not prejudge the answer.

19 72. The recurring variance may have a straightforward and entirely benign explanation.

20 73. But unless the underlying records are preserved and reconciled, neither Petitioner,
21 Respondents, nor the Court can determine conclusively whether that is so.

22 **RECURRING VARIANCES PRESENT A CONTINUING AND PROSPECTIVE**
23 **CONTROVERSY**

24 74. The unexplained variances are not significant to Petitioner merely as matters of
25 historical interest.

26 75. Respondent Registrar continues to administer elections in Riverside County.

27 76. EAP's members intend to participate as voters in future elections administered by
28 Respondents.

1 77. Absent identification and correction of any deficiencies revealed by examination of
2 the records, future Riverside County elections will be conducted under the same or substantially
3 similar ballot-accounting and reconciliation procedures.

4 78. If the recurring variances merely reflect a difference between public reporting
5 systems, reconciliation of the underlying records can establish that fact and remove uncertainty.

6 79. If, however, the variances reflect a deficiency in the County's reconciliation
7 procedures, that deficiency will likely recur in future elections unless identified and corrected.

8 80. Determining which is true requires access to records from elections in which the
9 unexplained variance has already manifested itself.

10 81. Destruction of those records would eliminate the best, and potentially the only,
11 evidence by which the source of the recurring variance can be identified.

12 82. The controversy therefore concerns not simply what occurred in completed
13 elections but whether Respondents' continuing election-administration practices satisfy mandatory
14 requirements that will govern elections in which EAP's members intend to vote.

15 **THIS ACTION IS NOT AN ELECTION CONTEST**

16 83. Petitioner expressly does not bring this action as an election contest under Elections
17 Code section 16100 et seq.

18 84. Petitioner does not seek to set aside the result of the November 2024 General
19 Election or the 2025 Special Election.

20 85. Petitioner does not seek to remove any person from office.

21 86. Petitioner does not seek to declare any other person elected, or any measure
22 adopted or defeated.

23 87. Petitioner does not ask this Court to determine that illegal votes were cast.

24 88. Petitioner does not ask this Court to determine that errors in vote counting changed
25 the result of any race or measure.

26 89. Petitioner does not seek any relief available uniquely through an election contest.

1 90. Elections Code section 16100 identifies grounds upon which an elector may contest
2 an election, including malconduct, illegal votes, errors sufficient to change the result, and errors in
3 vote-counting programs or summation of ballot counts.

4 91. Elections Code section 16401 establishes short limitations periods for such
5 contests, including a thirty-day period for most contests.

6 92. Those provisions serve the important purpose of establishing finality in election
7 results.

8 93. Petitioner does not seek to disturb that finality.

9 94. The relief requested here leaves every certified result intact.

10 95. The controversy instead concerns Respondents' ongoing compliance with
11 mandatory statutory procedures and the preservation of records necessary to determine whether
12 recurring accounting variances reveal a defect requiring correction before future elections.

13 96. The expiration of the period for contesting the result of a past election therefore
14 does not eliminate Petitioner's prospective interest in lawful administration of future elections.

15 **IMMINENT DESTRUCTION OF IRREPLACEABLE RECORDS**

16 **A. The November 2024 General Election Records**

17 97. Federal law generally requires preservation for twenty-two months of records and
18 papers relating to elections in which candidates for federal office appear. (52 U.S.C. § 20701.)
19 Elections Code section 17301 likewise requires that packages containing voted ballots and related
20 materials from such elections be kept, unopened and unaltered, for twenty-two months from the
21 date of the election.

22 98. The twenty-two-month period applicable to the November 5, 2024 General
23 Election will expire on or about September 5, 2026.

24 99. Petitioner is informed and believes that Respondents therefore intend, or are legally
25 permitted under their ordinary retention schedule, to begin destroying some or all records from
26 that election on or about September 5, 2026.

1 **B. The 2025 Special Election Records**

2 100. Because no candidate for federal office appeared on the 2025 Special Election
3 ballot, the twenty-two-month federal and state retention periods do not apply to records of that
4 election. Instead, Elections Code section 17302 requires that packages containing voted ballots
5 and related materials from state or local elections be kept, unopened and unaltered, for six months
6 from the date of the election, and provides that if no election contest or specified criminal
7 prosecution is commenced within that period, the elections official "shall have" those materials
8 "destroyed or recycled." Elections Code sections 17304 and 17306 prescribe corresponding six-
9 month retention periods for tally sheets, the roster copy used as the voting record, and related
10 materials.

11 101. The six-month period applicable to the 2025 Special Election expired on or about
12 May 4, 2026. Petitioner is informed and believes that no election contest concerning the 2025
13 Special Election was commenced within that period.

14 102. The ballots and related materials from the 2025 Special Election nonetheless
15 presently exist because of extraordinary intervening events. In February and March 2026, the
16 Riverside County Sheriff seized a substantial portion of those materials — reported to include
17 approximately 650,000 voted ballots and more than 1,400 boxes of election materials — pursuant
18 to search warrants issued in connection with an investigation prompted in part by the ballot-
19 accounting discrepancy identified in REIT's audit of that election.

20 103. That seizure and investigation are the subject of separate pending proceedings,
21 including an original writ proceeding in the California Supreme Court, *Cervantes v. Bianco*, No.
22 S295866, and related proceedings initiated by the Attorney General. Petitioner is informed and
23 believes that on or about April 8, 2026, the California Supreme Court ordered the investigation
24 halted and directed that all seized items, including the ballots, be preserved pending its review.

25 104. Petitioner is not a party to any of those proceedings and takes no position in this
26 action on any question presented in them, including the lawfulness of the seizure or of the
27 underlying investigation.
28

1 105. The continued existence of the 2025 Special Election materials thus presently rests
2 on interim orders entered in litigation to which Petitioner is a stranger, for purposes unrelated to
3 the reconciliation duties at issue here.

4 106. Upon the final determination of those proceedings — whatever their outcome —
5 the interim preservation orders will expire by their terms or become subject to dissolution, and the
6 seized materials will be subject to return to the Registrar’s custody. Because the six-month
7 retention period of Elections Code section 17302 has already expired and no election contest is
8 pending, nothing in the ordinary statutory scheme would then prevent — and section 17302 by its
9 terms would direct — prompt destruction of the 2025 Special Election ballots and related
10 materials.

11 107. Destruction of the 2025 Special Election records could accordingly commence with
12 little or no warning, and potentially even before destruction of the November 2024 General
13 Election records becomes permissible in September 2026. Only an order of this Court entered in
14 this action will ensure that those records survive the conclusion of the separate proceedings long
15 enough for the reconciliation sought here to be performed.

16 **C. The Records at Risk**

17 108. The records from both elections may include materials necessary to determine
18 whether the unexplained ballot-accounting variances can be reconciled.

19 109. Relevant materials include, without limitation and to the extent maintained by
20 Respondents or subject to return to their custody, as to each of the November 2024 General
21 Election and the 2025 Special Election:

- 22 a. voted ballots;
- 23 b. vote-by-mail ballot return envelopes and associated records;
- 24 c. ballot statements, VBM collection forms, and daily USPS in-take forms;
- 25 d. precinct and vote-center rosters, and roster audit forms and results;
- 26 e. ballot manifests;
- 27 f. chain-of-custody records;
- 28 g. ballot transfer logs;

- h. vote-by-mail receipt and processing records;
- i. provisional and conditional voter registration ballot records;
- j. spoiled, canceled, duplicated, remade, and invalidated ballot records;
- k. reconciliation worksheets and reports;
- l. canvass records;
- m. scanner and tabulator reports;
- n. cast vote records;
- o. ballot adjudication records and logs;
- p. audit logs;
- q. database records used to track receipt, processing, and counting of ballots;
- r. reports or records generated by the election-management and vote-counting systems;
- s. records reflecting corrections or adjustments to ballot totals;
- t. records concerning discrepancies discovered during the canvass and their resolution;
- u. relevant electronic records and reasonably accessible backup data; and
- v. communications concerning ballot reconciliation or unexplained differences in ballot totals.

110. Petitioner seeks preservation only of materials reasonably necessary to permit reconciliation of the reported ballot totals and to identify the source of the unexplained variances.

111. Preservation requires Respondents principally to maintain records already within, or returned to, their possession, custody, or control and to suspend ordinary destruction as to those records.

112. By contrast, destruction would be irreversible.

113. Once original election records and relevant electronic data have been destroyed, no subsequent judicial order can recreate them.

114. Elections Code section 15551 itself recognizes the propriety of judicial preservation of election materials. It provides that when an election contest or criminal prosecution

1 has commenced before the scheduled destruction date, voted ballots become subject to the order of
2 the court and "shall not be destroyed until after final determination" of the proceeding.

3 115. Although this action is not an election contest, section 15551 reflects the
4 Legislature's recognition that otherwise applicable election-record destruction schedules must
5 yield when records have become material to pending judicial proceedings.

6 116. The same preservation principle applies with particular force here, where
7 destruction would render the prospective relief sought by Petitioner ineffective before the Court
8 could adjudicate the merits.

9
PETITIONER'S STANDING AND BENEFICIAL INTEREST

10 117. Petitioner EAP's members include registered Riverside County electors who voted
11 in the elections at issue in this Petition and who intend to vote in future elections administered by
12 Respondent Registrar.

13 118. Petitioner has a beneficial interest in requiring Respondents to perform mandatory
14 election-administration duties prescribed by law.

15 119. Petitioner also has a direct prospective interest, on behalf of its members, in
16 elections in which its members' ballots are processed, accounted for, reconciled, and counted
17 according to the procedures mandated by the Elections Code.

18 120. EAP has standing to assert the interests of its members because its members would
19 otherwise have standing to sue in their own right; the interests EAP seeks to protect are germane
20 to its purposes; and neither the claims asserted nor the relief requested requires the participation of
21 individual members.

22 121. The recurring unexplained variances identified in successive Riverside County
23 elections raise a reasonable question concerning whether existing procedures are accomplishing
24 the reconciliation required by section 15302.

25 122. EAP's members will be subject to those same or substantially similar procedures in
26 future elections.

27
28

123. Preservation and examination of the existing records can determine whether the recurring variance has an innocuous explanation or instead identifies a deficiency requiring correction.

124. The relief sought therefore directly addresses Petitioner's prospective interest in lawful administration of elections in which its members intend to participate.

125. Independently, this action presents issues of substantial public importance concerning enforcement of duties imposed upon a public official for the benefit of the electorate as a whole, supporting application of California's public-interest exception to the ordinary beneficial-interest requirement for mandate.

FIRST CAUSE OF ACTION

WRIT OF MANDATE

Code of Civil Procedure § 1085

Failure to Perform Mandatory Reconciliation Required by Elections Code § 15302

126. Petitioner incorporates paragraphs 1 through 125 as though fully set forth herein.

127. Code of Civil Procedure section 1085 authorizes this Court to compel a public officer to perform an act that the law specifically enjoins as a duty resulting from public office.

128. Elections Code section 15302 provides that the official canvass "shall" include specified reconciliation procedures.

129. Section 15302, subdivision (b), requires "[a] reconciliation of the number of signatures on the roster with the number of ballots recorded on the ballot statement."

130. Section 15302, subdivision (c), expressly addresses the circumstance in which that reconciliation reveals a discrepancy. It provides:

"In the event of a discrepancy in the reconciliation required by subdivision (b), the number of ballots received from each polling place shall be reconciled with the number of ballots cast, as indicated on the ballot statement."

131. Section 15302, subdivision (d), separately requires "[a] reconciliation of the number of ballots counted, spoiled, canceled, or invalidated due to identifying marks, overvotes, or as otherwise provided by statute, with the number of votes recorded, including vote by mail and provisional ballots, by the vote counting system."

1 132. These provisions impose more than a duty to compare numbers or note the
2 existence of a discrepancy. They require reconciliation: an accounting by which the relevant ballot
3 totals are brought into agreement or the reason for any difference is identified and explained.

4 133. For the same reason, a purported reconciliation that merely confirms the internal
5 consistency of the electronic records produced by the vote-counting system — without accounting
6 for and explaining the conflicting physical ballot-accounting records, including ballot statements,
7 VBM collection forms, mail-intake records, and rosters — does not discharge the duty imposed by
8 section 15302. The statute requires the specified categories of records to be reconciled with one
9 another; it does not permit a discrepancy between them to be resolved by disregarding one side of
10 the comparison.

11 134. Publicly available records from Riverside County's November 2024 General
12 Election reveal a substantial unexplained variance between ballots reported as counted and ballots
13 reflected as received in the records described above.

14 135. Publicly available records from the subsequent 2025 Special Election reveal a
15 materially similar unexplained variance.

16 136. The persistence of those unexplained variances raises a reasonable question
17 whether the reconciliation mandated by Elections Code section 15302 was performed in a manner
18 sufficient to account for and explain the relevant ballot totals.

19 137. If Respondents performed the reconciliation required by section 15302 and thereby
20 identified an explanation for the variances, the records documenting that reconciliation should
21 disclose the explanation.

22 138. If no such reconciliation was performed, or if the reconciliation performed did not
23 account for the variances — including because it relied upon internally consistent electronic
24 records while disregarding the conflicting physical ballot-accounting records — the mandatory
25 statutory duty remains unfulfilled with respect to the discrepancies alleged herein.

26 139. The reconciliation required by Elections Code section 15302 is not satisfied merely
27 because selected machine-generated or database-derived totals agree with one another. Where
28 contemporaneous ballot statements, rosters, manifests, batch or transfer records, chain-of-custody

1 records, reconciliation worksheets, or other records maintained by Respondent Registrar reflect
2 materially different figures within a category required to be reconciled, Respondent Registrar must
3 account for that conflict and identify, by reference to the underlying records, the reason the figures
4 differ. Respondent Registrar may determine that a particular record is incomplete, duplicative,
5 erroneous, or not comparable, but Respondent Registrar cannot demonstrate reconciliation merely
6 by excluding or disregarding a materially inconsistent record without explanation.

7 140. Petitioner does not ask the Court to order a hand recount, require any particular
8 record or accounting convention to control, prescribe the technology by which reconciliation must
9 be performed, or predetermine the numerical result. Petitioner seeks a complete and record-based
10 reconciliation that accounts for materially relevant records generated at the different stages of
11 ballot receipt, custody, processing, disposition, and counting, and that explains any material
12 inconsistency between those records and the totals produced by Respondent Registrar's election-
13 management, ballot-tracking, or vote-counting systems. A reconciliation that merely reproduces
14 internally consistent electronic totals, without accounting for conflicting contemporaneous source
15 records, does not account for and explain the discrepancy alleged herein.

16 141. No statute, regulation, or published standard authorizes an elections official to treat
17 a material unexplained variance between ballots received and ballots counted as acceptable,
18 immaterial, or within tolerance. Petitioner is informed and believes that Respondents have
19 asserted, including through the Office of County Counsel, that a "2% industry standard" permits
20 such variances; that the Secretary of State has stated in writing that no standard applicable to post-
21 election reconciliation under California law exists or has been issued or endorsed by that office;
22 and that a public records request to the County for the asserted standard identified no responsive
23 records.

24 142. To the extent any quantitative accuracy benchmark appears in federal or California
25 law, the codified benchmarks for voting-system accuracy — including the error-rate standards
26 referenced by the Help America Vote Act (52 U.S.C. § 21081(a)(5)) and the accuracy
27 requirements of the California Voting System Standards adopted pursuant to Elections Code
28 section 19101 — are on the order of one error in 125,000 ballots, orders of magnitude more

1 stringent than the variances alleged herein. Whether or not those certification benchmarks directly
2 govern the official canvass, no recognized benchmark in state or federal law characterizes an
3 unexplained variance of 33,888 or 45,896 ballots as immaterial or acceptable.

4 143. Accordingly, a reconciliation is not complete under Elections Code section 15302
5 merely because a variance is asserted to fall within an unwritten or informal tolerance. The statute
6 requires that the variance be accounted for and explained.

7 144. Petitioner therefore seeks a writ of mandate requiring Respondent Registrar to
8 perform, complete, or demonstrate the reconciliation mandated by Elections Code section 15302
9 sufficiently to account for and explain the identified variances between ballots reflected as
10 received in the physical ballot-accounting records and ballots reported as counted.

11 145. Petitioner does not ask the Court to prescribe the substantive result of that
12 reconciliation or to require any particular reconciliation methodology. Nor does Petitioner ask the
13 Court to determine in the first instance why the numbers differ.

14 146. Those tasks belong to the elections official charged by statute with performing the
15 reconciliation.

16 147. Petitioner seeks only an order requiring Respondent Registrar to perform the
17 mandatory statutory reconciliation and to identify, from the underlying election records —
18 including the physical ballot-accounting records that presently conflict with the reported totals —
19 the reason or reasons for the identified variances.

20 148. Petitioner does not seek an order reopening the official canvass, recanvassing the
21 election returns, altering any vote total, withdrawing or amending any certificate of election, or
22 otherwise disturbing the finality of the certified election results.

23 149. Rather, Petitioner seeks completion or demonstration of a ministerial reconciliation
24 duty that arose during the official canvass and that, according to the presently available records,
25 has not resulted in an accounting sufficient to explain the identified variances.

26 150. Performance of that omitted or incomplete ministerial duty does not require
27 modification of the election returns. California law has long recognized that an election official's
28 failure timely to perform a purely ministerial election duty does not necessarily preclude

1 subsequent completion of that duty where the contents of the returns are not thereby modified.
2 *People ex rel. Del Valle v. Butler* (1912) 20 Cal.App. 379, 382 [129 P. 600].

3 151. Petitioner accordingly seeks neither a new canvass nor an election contest, but
4 performance or demonstration of the reconciliation the Elections Code required Respondents to
5 perform as part of the original canvass, solely to account for and explain the identified variances
6 and to determine whether any recurring administrative deficiency must be corrected prospectively.

7 152. Preservation of the underlying election records is necessary ancillary relief because
8 the reconciliation cannot reliably be performed, verified, or judicially reviewed after the records
9 necessary to conduct it have been destroyed.

10 153. Preservation alone, however, will not fully remedy the alleged statutory violation.
11 The ultimate relief sought under this cause of action is a completed reconciliation that accounts for
12 and explains the identified variances and thereby establishes whether Riverside County's ballot-
13 accounting procedures complied with Elections Code section 15302.

14 154. If that reconciliation identifies a deficiency in procedures that Respondents
15 continue to employ in administering Riverside County elections, prospective relief is necessary to
16 ensure that the deficiency is corrected before those procedures are employed in future elections.

17 155. Petitioner has no plain, speedy, and adequate remedy at law. Without mandate, the
18 statutory reconciliation will remain incomplete or unverifiable; and without immediate
19 preservation, destruction of the underlying records may make performance of that duty impossible.

20 156. Petitioner is therefore entitled to a writ of mandate pursuant to Code of Civil
21 Procedure section 1085 requiring Respondents to perform, complete, or demonstrate the
22 reconciliation mandated by Elections Code section 15302 and to account for and explain the
23 identified variances.

24
25 **SECOND CAUSE OF ACTION**
DECLARATORY RELIEF
Code of Civil Procedure § 1060

26 157. Petitioner incorporates paragraphs 1 through 156 as though fully set forth herein.
27
28

1 158. An actual controversy presently exists between Petitioner and Respondents
2 concerning the parties' rights and duties under California election law.

3 159. Petitioner contends that Elections Code section 15302 imposes a mandatory duty
4 not merely to compare ballot-accounting figures, but to reconcile the categories of records
5 specified by the statute and, where the comparison reveals a discrepancy, to account for and
6 explain that discrepancy through the reconciliation process prescribed by law.

7 160. Petitioner further contends that a reconciliation confined to confirming the internal
8 consistency of the electronic records generated by the vote-counting system, without accounting
9 for and explaining the conflicting physical ballot-accounting records, does not satisfy section
10 15302. Petitioner does not contend that the statute prescribes any particular reconciliation
11 methodology.

12 161. Petitioner further contends that the recurring unexplained variances alleged herein
13 create a present controversy concerning whether Respondents have fulfilled those mandatory
14 reconciliation duties.

15 162. Petitioner contends that, if Respondents have already performed the reconciliation
16 required by section 15302, Respondents must be able to identify through the records generated or
17 examined in that process the reason or reasons for the identified variances.

18 163. If Respondents cannot do so, Petitioner contends that Respondents must perform or
19 complete the reconciliation necessary to account for and explain those variances.

20 164. Petitioner further contends that records necessary to perform, complete,
21 demonstrate, or judicially review that reconciliation must be preserved pending resolution of this
22 action, including the 2025 Special Election records notwithstanding the expiration of the retention
23 period prescribed by Elections Code section 17302 and notwithstanding the conclusion of any
24 separate proceeding in which those records are presently preserved.

25 165. Petitioner is informed and believes that Respondents dispute or may dispute these
26 contentions and may contend that certification of the elections terminated any further obligation to
27 reconcile or explain discrepancies once the official canvass was completed, or that a reconciliation
28 limited to internally consistent electronic records satisfies the statute, or that destruction of the

1 records may proceed upon expiration of the applicable retention periods or conclusion of the
2 separate proceedings described above.

3 166. An actual and present controversy therefore exists concerning both the scope of
4 Respondents' mandatory reconciliation duties and Respondents' obligation to preserve the records
5 necessary for their performance and enforcement.

6 167. Petitioner requests a declaration that Elections Code section 15302 requires
7 Respondents to perform a reconciliation sufficient to account for and explain the identified ballot-
8 accounting variances, including the conflicting physical ballot-accounting records; that a
9 reconciliation confined to internally consistent electronic records does not satisfy the statute; that
10 Respondents must perform, complete, or demonstrate that reconciliation; and that records
11 reasonably necessary to do so must be preserved until the reconciliation and this action are
12 complete.

13
14 **BASIS FOR INJUNCTIVE RELIEF**
15 **INJUNCTIVE RELIEF**
16 **Code of Civil Procedure § 526**

17 168. Petitioner incorporates paragraphs 1 through 167 as though fully set forth herein.

18 169. Petitioner faces imminent and irreparable injury from destruction of the election
19 records at issue.

20 170. The threat is twofold. Records from the November 2024 General Election become
21 eligible for destruction under the ordinary retention schedule on or about September 5, 2026.
22 Records from the 2025 Special Election, whose statutory retention period has already expired, are
23 presently preserved only by interim orders in separate proceedings to which Petitioner is not a
24 party and may become subject to immediate destruction upon the final determination of those
25 proceedings.

26 171. The principal substantive relief sought in this action is enforcement of
27 Respondents' mandatory duty to perform, complete, or demonstrate the reconciliation required by
28 Elections Code section 15302 so that the identified variances are accounted for and explained. The

1 injunctive relief sought in this cause of action is necessary to preserve the records without which
2 that substantive relief may become impossible.

3 172. Once destroyed, the original physical and electronic evidence necessary to perform
4 or verify reconciliation cannot be recreated.

5 173. Monetary damages cannot remedy that injury.

6 174. Petitioner therefore has no adequate remedy at law.

7 175. The balance of hardships strongly favors preservation.

8 176. Respondents are required merely to retain records presently within, or returned to,
9 their possession, custody, or control for the limited period necessary to resolve this action and
10 complete the reconciliation.

11 177. Petitioner, by contrast, will permanently lose the ability to determine the cause of
12 recurring election-accounting variances if the records are destroyed.

13 178. Preservation also serves the public interest.

14 179. If the recurring variances are attributable to benign differences in reporting or
15 recordkeeping, preservation and reconciliation can establish that fact and increase public
16 confidence in the County's election procedures.

17 180. If they instead reveal a correctable deficiency, preservation permits that deficiency
18 to be identified and corrected before future elections.

19 181. Neither result alters the certified outcome of any past election.

20 182. Petitioner therefore is entitled to temporary, preliminary, and permanent injunctive
21 relief preserving the relevant election records pending reconciliation and final adjudication.

22 **BASIS FOR IMMEDIATE TEMPORARY RELIEF**

23 183. Petitioner incorporates paragraphs 1 through 182.

24 184. Records from the November 5, 2024 General Election are approaching the end of
25 their ordinary twenty-two-month federal retention period.

26 185. Petitioner is informed and believes that destruction of at least some relevant records
27 from that election may lawfully commence under Respondents' ordinary retention schedule on or
28 about September 5, 2026.

1 186. Records from the 2025 Special Election stand on even more precarious footing.
2 Their six-month statutory retention period under Elections Code section 17302 expired on or about
3 May 4, 2026, and they are presently preserved only by interim orders entered in separate pending
4 proceedings to which Petitioner is not a party. Upon the final determination of those proceedings,
5 destruction could commence immediately and without further notice to Petitioner or this Court.

6 187. The threatened harm is therefore imminent as to the records of both elections.

7 188. Destruction would permanently alter the status quo and potentially moot the Court's
8 ability to afford effective relief.

9 189. Preservation, by contrast, simply maintains the status quo.

10 190. Petitioner therefore requests a Temporary Restraining Order, followed by an Order
11 to Show Cause regarding a Preliminary Injunction, directing Respondents and all persons acting in
12 concert with them not to destroy, alter, overwrite, erase, dispose of, or render inaccessible any
13 record reasonably relating to ballot receipt, processing, accounting, reconciliation, tabulation, or
14 canvassing in the November 2024 General Election and the 2025 Special Election,
15 notwithstanding the expiration of any statutory retention period or the conclusion of any separate
16 proceeding in which those records are presently preserved.

17 191. Petitioner further requests that Respondents be directed, within 10 days of the
18 Court's order, to provide a verified preservation inventory identifying:

- 19 a. the categories of records being preserved, as to each of the two elections;
- 20 b. whether each category is maintained in physical, electronic, or both forms;
- 21 c. the general location or system in which each category is maintained, including
22 any records presently outside Respondents' physical custody;
- 23 d. the retention or scheduled destruction date applicable to each category;
- 24 e. whether any potentially responsive category of records has already been
25 destroyed, overwritten, deleted, or otherwise rendered unavailable and, if so,
26 when and pursuant to what retention policy; and

1 f. confirmation that appropriate preservation instructions have been issued to
2 County personnel and contractors having custody or control of responsive
3 records.

4 192. Such relief imposes a minimal administrative burden compared with the
5 irreversible harm that would result from destruction.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Petitioner prays for judgment as follows:

- 8 1. For issuance of a Temporary Restraining Order prohibiting Respondents, their
9 officers, employees, agents, contractors, vendors, and all persons acting in concert
10 with them from destroying, deleting, altering, overwriting, disposing of, or
11 rendering inaccessible records reasonably necessary to reconcile ballot receipt,
12 processing, accounting, and counting in the November 5, 2024 General Election
13 and the November 4, 2025 Special Election (Proposition 50), whether upon
14 expiration of any statutory retention period, upon the conclusion of any separate
15 proceeding in which those records are presently preserved, or otherwise;
- 16 2. For issuance of an Order to Show Cause why a Preliminary Injunction should not
17 issue continuing that preservation obligation during the pendency of this action;
- 18 3. For a Preliminary Injunction requiring continued preservation of those records
19 pending final judgment;
- 20 4. For a writ of mandate pursuant to Code of Civil Procedure section 1085 directing
21 Respondent Registrar to comply with the mandatory reconciliation requirements of
22 Elections Code section 15302 and to preserve the records necessary to demonstrate
23 such compliance;
- 24 5. For an order requiring Respondent Registrar to complete, verify, or otherwise
25 demonstrate the reconciliation necessary to account for and explain the identified
26 variances between ballots reported as counted and ballots reflected as received in
27 the relevant election records, including by accounting for and explaining the
28

1 physical ballot-accounting records that conflict with the reported totals, without
2 prescribing any particular reconciliation methodology;

3 6. For prospective relief requiring Respondents, if the reconciliation identifies a
4 recurring deficiency in existing ballot-accounting or reconciliation procedures, to
5 correct that deficiency before administering future elections under the same
6 procedures;

7 7. For a declaration concerning Respondents' continuing obligations under Elections
8 Code section 15302 with respect to the recurring ballot-accounting variances
9 alleged herein, including that a reconciliation confined to internally consistent
10 electronic records, without accounting for and explaining conflicting physical
11 ballot-accounting records, does not satisfy the statute;

12 8. For an order requiring Respondents to provide a verified inventory of preserved
13 records substantially as described in paragraph 191 above;

14 9. For a permanent injunction preserving relevant records until the required
15 reconciliation has been completed, any necessary corrective measures have been
16 identified, and the Court determines that continued preservation is no longer
17 necessary;

18 10. For Petitioner's costs of suit;

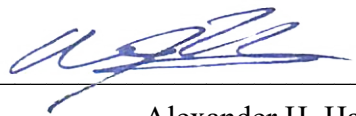
19 11. For attorneys' fees to the extent authorized by law, including, if applicable, Code of
20 Civil Procedure section 1021.5; and

21 12. For such other and further relief as the Court deems just and proper.

22 Dated: August 24, 2026

Respectfully submitted,

23 CONSTITUTIONAL COUNSEL GROUP

24
25 By: 

Alexander H. Haberbush

26 Attorneys for Petitioner and Plaintiff Election Accountability Project, Inc.
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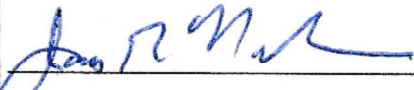
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VERIFICATION

I, James R. Niederecker, declare as follows: I am a member of the Board of Directors of Petitioner and Plaintiff Election Accountability Project, Inc. ("EAP") and am authorized to make this verification on EAP's behalf. I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and know its contents. The matters stated therein are true of my own knowledge except as to matters 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 August 24, 2026, at Riverside, California.



James R. Niederecker, on behalf of Election Accountability Project, Inc.