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Attorneys for Plaintiffs
THE COMMON SENSE PARTY,
TOM CAMPBELL, DEBBIE BENREY
and MICHAEL TURNIPSEED

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

THE COMMON SENSE PARTY;
TOM CAMPBELL, in his
capacity as the official representative of
the Common Sense Party and as a
registered voter in the Common Sense
Party; and DEBBIE BENREY and
MICHAEL TURNIPSEED, as registered
voters in the Common Sense Party,

Plaintiffs,

v.

ALEX PADILLA, in his official capacity
as Secretary of State of California; and
DOES 1-20,

Defendants.

Case No. _____

**VERIFIED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF; EXHIBITS**

(FIRST AND FOURTEENTH
AMENDMENTS TO THE UNITED
STATES CONSTITUTION;
42 U.S.C. SECTION 1983)

1 This action arises out of California state law governing the ability of new political
2 parties to access the ballot. Present circumstances caused by the COVID-19 pandemic
3 render the applicable state statute unduly burdensome and unconstitutional. This state
4 statute currently violates the United States Constitution and thus raises a federal question,
5 warranting review by a federal court.

6 This is an action to declare unconstitutional, enjoin and/or modify California's
7 voter registration requirements for new political parties seeking to qualify for the
8 November 2020 Presidential election ballot, as codified in California Elections Code
9 ("EC") section 5151(c), which outlines the registration requirements for general elections.
10 While these requirements are constitutional under normal circumstances, the current
11 public health emergency, and the Governor's executive orders issued in response to the
12 emergency, make the requirements impossible to attain – in effect, serving as an absolute
13 block to the November 2020 ballot.

14 Plaintiffs THE COMMON SENSE PARTY, TOM CAMPBELL, in his capacity as
15 officially designated representative of the Common Sense Party and as a registered voter
16 in the Common Sense Party, and DEBBIE BENREY and MICHAEL TURNIPSEED,
17 both of whom are voters registered in the Common Sense Party ("Plaintiffs"), by this
18 Complaint, allege as follows:

19 INTRODUCTION

20 1. Plaintiffs seek this Court's protection from EC section 5151(c), which
21 requires a political organization seeking to become a state-recognized political party to
22 gather registrations of California voters equal to .33 percent of the total number of
23 registered voters in California.

24 2. EC section 5151(c) applies only to new political parties seeking
25 qualification and not to other already established political parties.

26 3. EC section 5151(c) requires new political parties to secure over
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1 68,000 voter registrations in order to qualify for the November 2020 election ballot. The
2 deadline for submitting registrations to qualify a new political party for the November
3 2020 election ballot is July 3, 2020. (EC section 5151(c)(1) [123 days before the general
4 election].)

5 4. The voter registration threshold for qualifying new political parties used to be
6 1 percent of all votes cast in the last gubernatorial election. In 2014, the approval of 2013
7 California Assembly Bill No. 2351 lowered the registration requirement to the current .33
8 percent. (Exhibit (“Exh.”) 1, a true and correct copy of which is attached hereto and
9 incorporated herein by this reference.)

10 5. The aforementioned threshold was lowered in recognition of the many
11 benefits which smaller political parties bring to the electoral process and democratic
12 government and as an attempt to alleviate the various challenges which smaller parties
13 face when trying to attain and maintain their political party qualification status. (2013 CA
14 AB 2351 (NS); CA B. An., AB 2351 Sen., 8/21/2014 [stating that, “Historically,
15 alternative parties have promoted many reforms, such as social security, that are now part
16 of our social fabric.”]; Exhs. 2 and 3, true and correct copies of which are attached hereto
17 and incorporated herein by this reference.)

18 6. The devastating nature of the COVID-19 pandemic prompted Governor
19 Newsom to issue a series of executive orders, beginning in mid-March 2020 with
20 Executive Order No. N-33-20, mandating the closures of certain businesses and that
21 people shelter in place, effectively bringing the State of California to a standstill. (See
22 [https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-](https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf)
23 [COVID-19-HEALTH-ORDER.pdf](https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf); Exh. 4, a true and correct copy of which is attached
24 hereto and incorporated herein by this reference.)

25 7. Upon information and belief, these executive orders, and the social distancing
26 rules they contain, make in-person solicitation of voter registrations and petition
27 signatures impossible. As of today’s date, there is no set date for the termination of these
28 social distancing rules.

1 8. The social distancing rules substantially hinder Plaintiffs' ability to obtain the
2 requisite number of voter registrations in order to qualify the Common Sense Party for the
3 November 2020 Presidential election ballot because, upon information and belief, in-
4 person registration gathering is by far the most effective way to engage with voters about
5 changing their party affiliation, and the only cost-effective way to obtain voter
6 registrations.

7 9. Plaintiffs' right to form a political party, appear on the ballot and vote for
8 candidates of their choice is fiercely protected under the First Amendment of the United
9 States Constitution, as part of freedom of association, freedom to petition the government
10 for redress of grievances, and freedom of speech. (See, e.g., Williams v. Rhodes (1968)
11 393 U.S. 23, 30 [ballot access laws "place burdens on two different, although
12 overlapping, kinds of rights – the right of individuals to associate for the advancement of
13 political beliefs, and the right of qualified voters, regardless of their political persuasion,
14 to cast their votes effectively."].)

15 10. Imposing a substantial burden upon access to the ballot for a party-in-
16 formation must be justified by a compelling state interest, or the State will have violated
17 the First Amendment and Fourteenth Amendment rights of the party-in-formation and its
18 voters not to have their liberty deprived without due process; this burden also implicates
19 42 U.S.C. section 1983.

20 11. The current state of affairs under the COVID-19 pandemic and its detrimental
21 effect on the ability to obtain voter registrations render EC section 5151(c)
22 unconstitutional.

23 12. Plaintiffs seek declaratory relief declaring that, in light of current
24 circumstances, the voter registration requirements for qualification of parties-in-formation
25 are unconstitutional. Plaintiffs further seek injunctive relief to enjoin and prevent the
26 enforcement of the voter registration requirements for qualification of new political
27 parties in the upcoming November 2020 election on the grounds that: (1) they violate the
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1 First Amendment to the United States Constitution; and (2) they violate due process under
2 the Fourteenth Amendment to the United States Constitution.

3 **JURISDICTION AND VENUE**

4 13. This lawsuit alleges violations of Plaintiffs' rights under the First and
5 Fourteenth Amendments to the United States Constitution and 42 U.S.C. section 1983.
6 Accordingly, this Court has "federal question" jurisdiction over Plaintiffs' claims by
7 virtue of 28 U.S.C. sections 1331 and 1343, as well as under this Court's original
8 jurisdiction, under which the Court can entertain an action to redress a deprivation of
9 rights guaranteed by the United States Constitution. This Court further has supplemental
10 jurisdiction over state law claims under 28 U.S.C. section 1367(a). Declaratory and
11 injunctive relief are authorized by 28 U.S.C. sections 2201 and 2202. (See also Fed. Rule
12 of Civil Proc. 65.)

13 14. The named Defendant is a public official within the State of California and
14 performs official duties within this District. Accordingly, this Court has personal
15 jurisdiction over the named Defendant. Venue is proper within the Eastern District of
16 California under 28 U.S.C. section 1391(b) because a substantial part of the events,
17 omissions and circumstances giving rise to Plaintiffs' claims occurred or will occur in the
18 Eastern District.

19 **PARTIES**

20 15. Plaintiff THE COMMON SENSE PARTY is a political organization
21 in the process of forming a political party in California in connection with the November
22 3, 2020 election.

23 16. Plaintiff TOM CAMPBELL ("Campbell") is the officially designated
24 representative of the Common Sense Party and is a registered voter with the Common
25 Sense Party residing in Orange County, California. (See
26 <https://elections.cdn.sos.ca.gov/ror/15day-presprim-2020/non-qual-chairs.pdf>; Exh. 5, a
27 true and correct copy of which is attached hereto and incorporated herein by this
28 reference.)

17. Plaintiff DEBBIE BENREY is a voter registered with the Common Sense Party residing in San Diego County, California.

18. Plaintiff MICHAEL TURNISPEED is a voter registered with the Common Sense Party residing in Kern County, California.

19. Defendant ALEX PADILLA, in his official capacity as the Secretary of State of California, is empowered by state law to enforce and administer California election laws, including the new political party voter registration requirements being challenged in this lawsuit. Defendant is being sued in his official capacity for declaratory and injunctive relief under 42 U.S.C. section 1983 and 28 U.S.C. section 2201, in addition to attorney's fees and costs under 42 U.S.C. section 1988(b).

20. Plaintiffs are unaware of the true names and capacities of Defendants DOES 1 through 20, and sue such Defendants by fictitious names. Plaintiffs are informed and believe, and based upon such information and belief, allege that each of the fictitiously named Defendants is in some manner responsible for the actions described in this Verified Complaint. When the true identities and capacities of these Defendants have been determined, Plaintiffs will seek leave to amend this Verified Complaint to insert such identities and capacities as appropriate.

GENERAL ALLEGATIONS

21. Plaintiffs' right to form a political party and participate in the November 2020 election is a fundamental right protected by the First Amendment. A law that imposes a substantial and disproportionate burden on this right must be narrowly tailored and backed by a compelling state interest; otherwise the State will have violated both Plaintiffs' First Amendment right to freedom of speech and association, and Fourteenth Amendment right to not have their liberties deprived without due process.

22. Plaintiffs believe that the upcoming election for President is one of the most important elections in United States history and wish to qualify the Common Sense Party for the November 2020 election ballot so that the Party may participate in the election,

1 show its support for a Presidential and Vice-Presidential candidate, and be permitted to
2 exercise all other rights granted to political parties under California law, including the
3 ability to make contributions to candidates of its choosing. (See EC section 5150.)

4 23. The number of voter registrations required to be recognized as an official
5 political party in California, given the current circumstances and the social distancing
6 rules now in effect under state law, imposes a substantial burden upon Plaintiffs' right to
7 qualify the Common Sense Party as an official political party.

8 24. Using the most recently available official information about voter
9 registrations in the State (as of February 18, 2020), EC section 5151(c) requires the
10 Common Sense Party to obtain 68,180 registrations in order to qualify for the November
11 2020 ballot. The deadline to obtain these voter registrations is July 3, 2020. (See
12 <https://www.sos.ca.gov/elections/political-parties/political-party-qualification/>; Exh. 6, a
13 true and correct copy of which is attached hereto and incorporated herein by this
14 reference.)

15 25. Plaintiffs implemented a plan, beginning on or about Labor Day weekend
16 2019, to collect the required number of registrations in the Common Sense Party and had
17 been gathering registrations by use of in-person solicitors. The in-person registration
18 gathering process was terminated on or about March 8, 2020 out of a growing concern for
19 public safety because of the COVID-19 pandemic.

20 26. On March 19, 2020, Governor Newsom issued an executive order ordering
21 all individuals living in California to stay home, except to carry out activities deemed
22 essential. (See [https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-](https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf)
23 [EO-N-33-20-COVID-19-HEALTH-ORDER.pdf](https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf); Exh. 4.)

24 27. As of February 18, 2020, the Common Sense Party had obtained 10,859
25 registrants. (See <https://elections.cdn.sos.ca.gov/ror/15-day-presprim-2020/nonqual.pdf>;
26 Exh. 7, a true and correct copy of which is attached hereto and incorporated herein by this
27 reference.)

1 28. Plaintiffs are informed and believe that, as of March 8, 2020, the Common
2 Sense Party had obtained 19,038 registrants. The next official reporting of Common
3 Sense Party registrants is scheduled to be released by the Secretary of State's office in
4 August 2020; this updated information will reflect the total number of registrants in the
5 Common Sense Party as of July 3, 2020.

6 29. Plaintiffs are informed and believe that they would have obtained more than
7 68,180 registrations by the July 3, 2020 deadline had the in-person voter registration
8 gathering efforts been allowed to continue at a reasonable pace.

9 30. As of February 18, 2020, there were five other political organizations
10 attempting to qualify as a political party for the November 2020 election; these other
11 parties-in-information had only obtained between 2 and 232 registrants each as of this date,
12 far fewer than had been obtained by the Common Sense Party. (See
13 <https://elections.cdn.sos.ca.gov/ror/15-day-presprim-2020/nonqual.pdf>; Exh. 7, a true and
14 correct copy of which is attached hereto and incorporated herein by this reference.)

15 **Effect of Governor's Health Orders on Obtaining Voter Registrations**

16 31. The statewide social distancing rules promulgated by Governor Newsom
17 make in-person solicitation of voter registrations impossible and unlawful.

18 32. Upon information and belief, even when social distancing rules are eventually
19 relaxed, it is likely that social behavior will make in-person solicitation of voter
20 registrations practically ineffective at least up until July 3, 2020, the statutory deadline for
21 qualifying a new political party for the November 2020 election ballot.

22 33. Upon information and belief, even had Governor Newsom's executive order
23 expired as of today's date, too much time would already have been lost during the shelter-
24 in-place order for Plaintiffs to obtain the registrants required to qualify for the November
25 2020 ballot.

26 **Methods of Gathering Voter Registrations**

27 34. Methods of convincing voters to register with a new political party other than
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1 in-person solicitation, including through e-mail or social media, are not practical
2 alternatives to in-person voter registration solicitation.

3 35. Under California law, a party-in-formation can only provide voter
4 registration forms to potential members through in-person solicitation. (EC section
5 2158(b)(4) [“If distribution of voter registration cards pursuant to this subdivision is
6 undertaken by mailing cards to persons who have not requested the cards, the person
7 mailing the cards shall enclose a cover letter or other notice with each card instructing
8 the recipients to disregard the cards if they are currently registered voters.”].) The
9 Secretary of State enforces this prohibition against voter registration efforts made
10 through electronic as well as traditional mail.

11 36. Any electronic or on-line method of seeking a change in registration would
12 therefore require asking the potential re-registrant to obtain her or his own re-registration
13 form, which, upon information and belief, is far less effective and more expensive than
14 being able to give the voter registration form directly to the voter.

15 37. A party-in-formation cannot ascertain when a voter has completed the
16 registration process through electronic or on-line means, because that step has to be taken
17 directly with a County Registrar of Voters or the Secretary of State’s office. Hence, it is
18 impossible for a party-in-formation to contract with a signature-gathering firm to utilize
19 electronic or on-line methods, with compensation determined on the basis of actual
20 registrations achieved. By contrast, a party-in-formation is able to contract with a
21 signature-gathering firm, as the Common Sense Party did, on the basis of physical
22 registration cards completed and signed by voters, because the voter registration cards are
23 sent in to the Registrar of Voters in the applicable county by the signature-gathering firm
24 itself.

25 38. In addition, upon information and belief, electronic and on-line methods for
26 soliciting voter registrations are vastly more expensive than in-person registration
27 solicitation. The Common Sense Party tested on-line versus in-person registration in
28 September 2019 and found the average cost of attempting to obtain one on-line

1 registration would be between \$20 and \$100 per registrant, with no guarantee that a voter
 2 actually completed the process with the Secretary of State, compared to \$10 per registrant
 3 for in-person registrations, and a guarantee that the registration obtained through the in-
 4 person method was properly submitted to the County Registrar of Voters. This price
 5 differential increased even more during the solicitation period conducted by the Common
 6 Sense Party after the test period, when the cost per registrant obtained through in-person
 7 solicitation was between only \$3 and \$7.

8 39. When United States district courts in the Northern District of Illinois and the
 9 Eastern District of Michigan were confronted with this same burden on ballot access
 10 because of the COVID-19 health crisis, they ordered both the use of electronic
 11 registration (which had not otherwise been permitted) and the lowering of the required
 12 number of voter signatures. (See below.) Hence, allowing electronic means alone was
 13 not held to be a sufficient remedy to this current burden on ballot access. These court
 14 cases support lowering the number of required registrations under EC section 5151(c),
 15 even though California currently allows electronic methods of voter registration.

16 40. Further, in ordering Illinois and Michigan to allow electronic signatures, the
 17 United States district courts were not presented with the restriction found in California
 18 law which makes it illegal to mail (traditionally or by e-mail) a registration form to an
 19 already registered voter.

20 Cases in Other States

21 41. The U.S. District Court for the Northern District of Illinois has just recently
 22 held that a state's interest in requiring some minimum showing of support before granting
 23 ballot access to a political party can be met with a modified requisite number of
 24 signatures, taking into account the extreme social-distancing rules of the extraordinary
 25 present health crisis. (Libertarian Party of Illinois v. Pritzker, No. 20-CV-2112, 2020 WL
 26 1951687 (N.D. Ill. Apr. 23, 2020); Exh. 8, a true and correct copy of which is attached
 27 hereto and incorporated herein by this reference.)

1 42. The order issued by the U. S. District Court for the Northern District of
 2 Illinois drastically reduces the number of signatures needed to qualify a new political
 3 party for the ballot to only 10 percent of its original statutory requirement. The number of
 4 required signatures needed for a new party to qualify for the ballot in Illinois is typically
 5 25,000, which is far less than the 68,180 registrations currently needed in California. The
 6 federal court, in recognition of the extraordinary present circumstances, nevertheless
 7 reduced the 25,000 number to only 2,500 signatures. (Libertarian Party of Illinois, 2020
 8 WL 1951687; Exh. 8.)

9 43. Similarly, the U.S. District Court for the Eastern District of Michigan and the
 10 Supreme Judicial Court of Massachusetts have held that a state's interest in requiring
 11 some minimum showing of support before granting ballot access to a candidate for public
 12 office can be met with a modified requisite number of signatures, taking into account the
 13 social-distancing rules of the present health crisis. (Esshaki v. Whitmer, No. 2:20-CV-
 14 10831-TGB, 2020 WL 1910154 (E.D. Mich. Apr. 20, 2020); Goldstein v. Sec'y of
 15 Commonwealth, No. SJC-12931, 2020 WL 1903931 (Mass. Apr. 17, 2020); Exhs. 9 and
 16 10, true and correct copies of which are attached hereto and incorporated herein by this
 17 reference.)

18 44. The State of New York has also reached a similar conclusion by executive
 19 order. (N.Y. Exec. Order No. 202.2; Exh. 11, a true and correct copy of which is attached
 20 hereto and incorporated herein by this reference.)

21 45. The State of Vermont has suspended candidate petition signature
 22 requirements entirely for both the August 2020 primary and the November 2020 general
 23 election, in response to the COVID-19 pandemic and corresponding social distancing
 24 rules. (Vt. Gen. Assemb., H.681, Act 92 (2020); Exh. 12, a true and correct copy of
 25 which is attached hereto and incorporated herein by this reference.)

26 46. The states mentioned above changed or suspended their signature
 27 requirements at an earlier date when the duration of the social-distancing rules was still
 28 uncertain and re-opening seemed possible in a shorter period of time. At today's later

1 date, when social-distancing rules applicable to obtaining voter registrations appear likely
 2 to be kept in place in California up until and including the July 3, 2020 deadline for new
 3 party qualification, any requirement for signatures that does not take into account the fact
 4 that in-person registration gathering has effectively been shut down for the rest of the
 5 2020 qualification period imposes an unconstitutional burden on Plaintiffs' First and
 6 Fourteenth Amendment rights.

7 47. The burden upon the State of California to demonstrate that it needs to adhere
 8 to its current registration requirements is an extremely high one, given that many other
 9 states, with the same interest in ensuring a reasonable showing of support for a new
 10 political party or for a candidate before granting ballot access, have reduced the number
 11 of signatures required to qualify for the ballot by very large amounts or have eliminated
 12 signature requirements entirely.

13 **Voter Registration Requirements Codified in EC section 5151(c) are Unduly**
 14 **Burdensome in Light of Current Pandemic**

15 48. Although the State of California has a legitimate interest in requiring proof of
 16 voter interest in a new party, that interest cannot be vindicated by a requirement that
 17 effectively prevents a new party from qualifying for the ballot. Under the present health
 18 circumstances and statewide order prohibiting the kind of conduct required for in-person
 19 registration solicitation, the State's requirement of 68,180 voter registrations by July 3,
 20 2020 unreasonably burdens Plaintiffs' First Amendment rights of association, assembly,
 21 petition and speech.

22 49. In light of the social-distancing order in California, the minimum requirement
 23 of registrants for a new political party to qualify for the ballot has made access to the
 24 ballot "merely theoretical," which the United States Supreme Court has explicitly said is
 25 not acceptable. (American Party of Texas v. White (1974), 415 U.S. 767, 783 ["what is
 26 demanded may not be so excessive or impractical as to be in reality a mere device to
 27 always, or almost always, exclude parties with significant support from the ballot. The
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1 Constitution requires that access to the electorate be real, not ‘merely theoretical.’”]

2 50. The highest court in Massachusetts, while discussing the interaction of the
3 COVID-19 pandemic and state-mandated signature requirements, recognized that,
4 “statutory requirements that in ordinary times impose only modest burdens . . . may
5 significantly interfere with the fundamental right to run for political office in a time of
6 pandemic.” (Goldstein, supra, 2020 WL 1903931; Exh. 10.)

7 51. Statutes impacting fundamental rights which may have previously withstood
8 Constitutional scrutiny may now fail to withstand the same level of scrutiny given the
9 COVID-19 pandemic and current social distancing rules, as is the case with Elections
10 Code section 5151(c).

11 52. The Plaintiffs have done all that can reasonably be expected of them to
12 demonstrate that there is significant popular support for the Common Sense Party in the
13 current emergency conditions. To insist upon more registrations unreasonably curtails
14 Plaintiffs’ First and Fourteenth Amendment rights.

15 **FIRST CAUSE OF ACTION**

16 **DECLARATORY RELIEF THAT**
17 **EC SECTION 5151(C) IS UNCONSTITUTIONAL**
18 **AS APPLIED TO PLAINTIFFS**

19 53. Plaintiffs hereby reallege and incorporate by reference the allegations
20 contained in paragraphs 1 through 52 as if fully set forth herein.

21 54. Plaintiffs believe that EC section 5151(c), as applied to Plaintiffs’ ability to
22 qualify for the November 2020 Presidential election, is unconstitutional.

23 55. Plaintiffs believe that Defendant will take the position that EC section
24 5151(c), as applied to Plaintiffs’ ability to qualify for the November presidential election,
25 is not unconstitutional.

26 56. Accordingly, there exists a case or controversy as between Plaintiffs and
27 Defendant as to the current constitutionality of EC section 5151(c), as applied to
28 Plaintiffs, and it is appropriate for the Court to adjudicate this issue on an expedited basis.

57. Based on the foregoing, this Court should declare that EC section 5151(c) is

1 unconstitutional as applied to Plaintiffs.

2 **SECOND CAUSE OF ACTION**

3 **INJUNCTIVE RELIEF TO PREVENT**
4 **VIOLATIONS OF THE FIRST AMENDMENT TO**
5 **THE U.S. CONSTITUTION (42 U.S.C. section 1983)**

6 58. Plaintiffs hereby reallege and incorporate by reference the allegations
7 contained in paragraphs 1 through 52 as if fully set forth herein.

8 59. Under present circumstances, California's ballot access requirements for new
9 political parties violate the rights guaranteed to Plaintiffs by the First Amendment to the
10 United States Constitution, as enforced through 42 U.S.C. section 1983. The .33 percent
11 registration threshold imposed by EC section 5151(c), in conjunction with the social
12 distancing rules promulgated by the Governor's COVID-19 executive orders, place an
13 undue burden on Plaintiffs' ability to obtain the required number of voter registrations to
14 appear on the November 2020 ballot.

15 60. Given current circumstances relating to the COVID-19 pandemic and the
16 inability to gather registrations in-person, the .33 percent registration threshold is
17 unreasonable, burdensome, and not narrowly tailored to meet any compelling or
18 legitimate state interest.

19 61. A real and actual controversy exists between the parties.

20 62. Plaintiffs have no other adequate remedy at law besides this action for
21 declaratory and injunctive relief.

22 63. Upon information and belief, Defendant, acting under color of state law, will
23 enforce the challenged law against Plaintiffs, in violation of their First Amendment rights.

24 64. As a direct and proximate result of the violations complained of herein,
25 Plaintiffs have suffered and will suffer irreparable harm, which necessitates and justifies
26 injunctive relief.

27 65. Based on the foregoing, this Court should issue an injunction to prevent
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1 Defendants from enforcing EC section 5151(c) on the grounds that it violates Plaintiffs'
2 and others' First Amendment rights.

3 **THIRD CAUSE OF ACTION**

4 **INJUNCTIVE RELIEF TO PREVENT**
5 **VIOLATIONS OF DUE PROCESS UNDER THE FOURTEENTH AMENDMENT**
6 **TO THE UNITED STATES CONSTITUTION (42 U.S.C. section 1983)**

6 66. Plaintiffs hereby reallege and incorporate by reference the allegations
7 contained in paragraphs 1 through 52 as if fully set forth herein.

8 67. Under present circumstances, California's ballot access requirements for new
9 political parties violate the due process rights guaranteed to Plaintiffs by the Fourteenth
10 Amendment to the United States Constitution, as enforced through 42 U.S.C. section
11 1983. The .33 percent registration threshold imposed by EC section 5151(c), in
12 conjunction with the social distancing rules promulgated by the Governor's COVID-19
13 executive orders, place an undue burden on Plaintiffs' ability to obtain the required
14 number of voter registrations to appear on the November 2020 ballot and deprive them of
15 their due process rights under the Fourteenth Amendment.

16 68. Given current circumstances due to the COVID-19 pandemic and the inability
17 to gather voter registrations in-person, the .33 percent registration threshold is
18 unreasonable, burdensome, and not narrowly tailored to meet any compelling or
19 legitimate state interest.

20 69. A real and actual controversy exists between the parties.

21 70. Plaintiffs have no other adequate remedy at law besides this action for
22 declaratory and injunctive relief.

23 71. Upon information and belief, Defendant, acting under color of state law, will
24 enforce the challenged law against Plaintiffs, in violation of their Fourteenth Amendment
25 due process rights.

26 72. As a direct and proximate result of the violations complained of herein,
27 Plaintiffs have suffered and will suffer irreparable harm, which necessitates and justifies
28 injunctive relief.

73. Based on the foregoing, this Court should issue an injunction to prevent Defendants from enforcing EC section 5151(c) on the grounds that it violates Plaintiffs' and others' Fourteenth Amendment rights.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this honorable court enter an order:

1. Requiring the Secretary of State to register the Common Sense Party as an official political party in California without the need for the Common Sense Party to obtain more voter registrations than those already submitted to County Registrars of Voters and the Secretary of State, pursuant to EC section 5151(c); and
2. Imposing such other equitable relief as necessary or appropriate to preserve Plaintiffs' constitutional rights.

Dated: May 29, 2020

Respectfully Submitted:

By: 
James R. Sutton
The Sutton Law Firm, PC
Attorneys for Plaintiffs