

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

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

| | | |
|----------------------------------|---|--------------------------------------|
| Robert RAYMOND, |) | 2:12-cv-02215-GEB-EFB and |
| |) | related cases: |
| Plaintiff, |) | 2:12-cv-02217-GEB-EFB |
| |) | 2:12-cv-02219-GEB-EFB |
| v. |) | 2:12-cv-01407-GEB-EFB |
| |) | 2:12-cv-01408-GEB-EFB |
| Barbara HOWARD, Sheldon D. |) | 2:12-cv-01412-GEB-EFB |
| Johnson, Jim McCauley, Kammi |) | 2:12-cv-02220-GEB-EFB |
| Foote, Lee Lundigran, Ken Baird, |) | 2:12-cv-02221-GEB-EFB |
| Sheryl Thur, Austin Erdman, |) | 2:12-cv-02222-GEB-EFB |
| Kathy Darling Allen, Beverly |) | 2:12-cv-02223-GEB-EFB |
| Ross, Freddie Oakley, and |) | 2:12-cv-02225-GEB-EFB |
| Kathleen Williams, |) | 2:12-cv-02259-GEB-EFB |
| |) | |
| Defendants. |) | <u>CERTIFICATION THAT THE</u> |
| |) | <u>CONSTITUTIONALITY OF STATUTES</u> |
| |) | <u>ARE CHALLENGED;</u> AND ORDER |
| |) | CONTINUING HEARINGS AND CASE- |
| |) | MANAGEMENT CONFERENCE |

The undersigned United States District Judge certifies under 28 U.S.C. § 2403(b) to **the Attorney General of the State of California, THE HONORABLE KAMALA D. HARRIS**, that Plaintiff challenges in each above action the constitutionality of California Election Code §§ 102, 104, and 9022. Plaintiff sues various county-clerk registrars, alleging that these statutes are unconstitutional under the First and Fourteenth Amendments to the United States Constitution "to the extent the statutes require those who circulate nominating petitions on behalf of political candidates to be qualified to vote in the [S]tate of California." (Compl. ¶ 2, ECF No. 2.)

28 U.S.C. § 2403(b) prescribes:

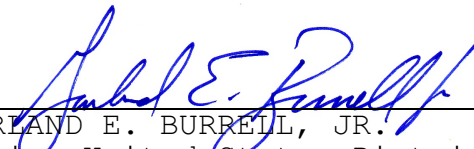
In any action . . . in a court of the United States to which a State or any agency, officer, or employee thereof is not a party, wherein the constitutionality of any statute of that State affecting the public interest is drawn in question, the

1 court shall certify such fact to the attorney general of the
2 State, and shall permit the State to intervene for
3 presentation of evidence . . . and for argument on the
4 question of constitutionality.

5 **Further, to ensure that the Attorney General receives this**
6 **certification, the Clerk of Court shall serve a copy of this**
7 **certification on the Attorney General under Federal Rule of Civil**
8 **Procedure 5.1(a) (2), which is applicable to such service by a party, as**
9 **follows: "either by certified or registered mail or by sending it to an**
10 **electronic address designated by the attorney general for this purpose."**

11 Further, the hearing on each Defendant's motion for compulsory
12 joinder scheduled to commence at 9:00 a.m. on December 3, 2012, is
13 continued to February 25, 2013 commencing at 9:00 a.m. The hearing on
14 Plaintiff's motions for judgments on the pleadings scheduled to commence
15 at 9:00 a.m. on December 3, 2012, is continued to June 3, 2013,
16 commencing at 9:00 a.m. Lastly, the Status Conference scheduled in each
17 above action is continued to August 5, 2013, commencing at 9:00 a.m; a
18 joint status report shall be filed fourteen days before this hearing.

19 Dated: November 20, 2012

20 
21 _____
22 GARLAND E. BURRELL, JR.
23 Senior United States District Judge
24
25
26
27
28