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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA WESTERN DIVISION**

11 **CARL GORDON,**
12 **PLAINTIFF,**

13 **v.**

14 **GAVIN NEWSOM, IN HIS OFFICIAL**
15 **CAPACITY AS GOVERNOR OF**
16 **CALIFORNIA;**

17 **SHIRLEY N. WEBER, IN HER**
18 **OFFICIAL CAPACITY AS CALIFORNIA**
19 **SECRETARY OF STATE;**

20 **DOES 1 THROUGH 10,**

21 **DEFENDANTS.**

22 CASE No: 2:25-cv-12427-SVW-MAAx

23 **FIRST AMENDED COMPLAINT**

24 **(Declaratory and Prospective**
25 **Injunctive Relief)**

26 **(28 U.S.C. §§ 1331, 1343, 2201–2202)**

27 **(Three-Judge Court Required Under**
28 **28 U.S.C. § 2284)**

29 **FIRST AMENDED COMPLAINT**

1 **STATEMENT OF THE CASE**

2 Octogenarian Plaintiff Carl Gordon is a long-standing California voter who has
3 participated as a registered voter in approximately ninety percent of all primary
4 and general elections since casting his first ballots in 1968. He holds a Master of
5 Public Administration (MPA) from the University of Southern California (USC).
6 Plaintiff has a concrete and particularized interest in the lawful administration of
7 elections. His injuries arise from election statutes and practices that directly affect
8 the integrity and legality of the electoral process governing his right to vote and
9 as a candidate, are fairly traceable to the challenged conduct, and are redressable
10 through declaratory and prospective injunctive relief. Plaintiff's interest is
11 nonpartisan and arises from his personal stake as a voter and his one-time status
12 as a fee-paying potential replacement candidate in the 2021 gubernatorial recall
13 election.

15 Proposition 50 must be adjudicated as the endpoint of a coordinated legislative,
16 executive, administrative, funding, and judicial chain that now governs future
17 elections, including those scheduled for June and November 2026. As of January
18 14, 2026, pursuant to the 2–1 decision in *David Tangipa v. Gavin Newsom*, No.
19 2:25-cv-10616 (C.D. Cal.), a three-judge district court permitted the continued
20 use of the congressional redistricting maps adopted pursuant to Proposition 50 for
21 upcoming federal elections. Those maps are scheduled to remain in effect
22 through 2030, spanning four federal election cycles, thereby giving the
23 challenged enactments ongoing and prospective legal effect.

25 This case concerns an institutional breakdown arising from the interaction of (a)
26 state election administration, (b) federally funded election infrastructure
27

1 governed by federal law, including HAVA-related funding and oversight
2 mechanisms, and (c) judicial processes that failed to provide neutral and timely
3 adjudication of structural constitutional claims. Federal funds and federally
4 supported election infrastructure were used to administer elections between 2020
5 and 2025 under an unconstitutional state framework, by decisionmakers who
6 knew or should have known of the underlying constitutional defects.

7 Plaintiff alleges that these defects caused financial loss to the United States, the
8 State of California, Plaintiff, similarly situated potential replacement candidates,
9 and California's approximately 22 million registered voters across multiple
10 election cycles—from the contested 2020 presidential election through the Ninth
11 Circuit's published, binding non-mootness ruling concerning the 2021 California
12 gubernatorial recall election—and resulted in continuing constitutional injury and
13 institutional harm culminating in the November 4, 2025 special election
14 conducted pursuant to the Election Rigging Response Act.

15 On December 19, 2025, in *Tangipa v. Newsom*, No. 2:25-cv-10616, Plaintiff, as a
16 proposed intervenor, moved under Federal Rules of Civil Procedure 24(a) and
17 24(b) seeking limited participation to present relevant and timely information
18 concerning Proposition 50. That motion was denied, even as other parties were
19 granted leave to intervene. Plaintiff sought intervention solely to protect distinct
20 federal constitutional and statutory interests directly implicated by the pending
21 election-law proceedings.

22 Plaintiff alleges that two independent legal constraints governed the actions at
23 issue. First, constitutional authority. The California Constitution recognizes
24 circumstances of executive “temporary disability” under Article V, section 10,

1 during which acts taken without lawful authority are void from inception.
2 Plaintiff alleges that core components of the Proposition 50 legislative and
3 administrative framework were enacted and implemented during such a period,
4 rendering them void ab initio and incapable of cure by later reliance,
5 implementation, or voter approval. Second, federal supremacy. State election
6 administration that implicates federally governed election funds is subject to
7 binding federal conditions. Where state enactments and implementation conflict
8 with those conditions, they are preempted under the Supremacy Clause.
9

10 The case further alleges institutional conflict at the Department of Justice, where
11 officials acting on behalf of the United States participated in declination and
12 related decisions while personally conflicted by parallel litigation arising from
13 the same factual nucleus. Plaintiff also alleges a structural due-process failure:
14 the suppression and delayed disclosure of critical federal oversight evidence,
15 combined with conflicted institutional decision-making, obstructed timely and
16 neutral merits adjudication.
17

18 These allegations are presented as matters of record. The significance of this case
19 does not rest solely on the challenged election, but on how the enactments and
20 administrative actions at issue were subsequently treated by state officials and
21 federal courts as settled and operative authority, despite unresolved constitutional
22 and federal-law defects apparent on the face of the record. Plaintiff alleges that
23 jurisdictional anomalies, procedural compression, and adjudicative outcomes
24 permitted the continued enforcement of challenged election frameworks without
25 a full merits determination.
26
27
28

1 The issues presented transcend Plaintiff individually. They affect the integrity of
2 federal election funding nationwide, the constitutional limits of state authority
3 when federal funds are involved, and the operation of Article III courts when
4 structural conflicts and evidentiary suppression impair adjudicative neutrality.
5 The question presented is narrow but consequential: whether statewide election
6 laws and redistricting measures advanced and enforced without lawful authority,
7 and implicating federal funding conditions, may continue to be treated as settled
8 law absent full constitutional adjudication.
9

10 **STATEMENT OF FEDERAL INTERESTS AND NATIONAL
11 IMPORTANCE**

12 This action implicates compelling federal interests that extend far beyond the
13 parties and require merits adjudication.

14 The United States has a paramount interest in ensuring that federal election
15 funds, including funds governed by the Help America Vote Act (HAVA), are
16 expended only in compliance with constitutional and statutory requirements.

18 Federal election funding is conditioned on neutrality, legality, and adherence to
19 constitutional limits. When state officials administer elections using federally
20 supported infrastructure under an unconstitutional framework, the resulting
21 expenditures undermine federal law and the supremacy of federal conditions.
22

23 The integrity of federal election funding is a matter of national importance.
24 Misuse of such funds in one state establishes precedent that threatens uniform
25 administration and public confidence nationwide.

1 This case further implicates the federal judiciary's institutional role. Article III
2 courts have a constitutional obligation to provide neutral forums for adjudicating
3 federal claims, particularly where federal funds and constitutional rights intersect.
4

5 Allegations of institutional conflict and suppression of federal oversight evidence
6 raise questions concerning the capacity of judicial and executive institutions to
7 function when officials act under disabling conflicts.
8

9 The Supreme Court has repeatedly recognized that cases presenting structural
10 constitutional defects, federal supremacy questions, and threats to institutional
11 integrity warrant careful and complete adjudication.
12

13 Absent judicial resolution, the issues presented here are capable of repetition yet
14 evading review, as election-related misconduct tied to federal funding often
15 concludes before merits review can occur.
16

17 The federal interests at stake include not only redress for past injury but also
18 prospective guidance necessary to prevent recurrence and preserve the
19 constitutional balance between state election administration and federal authority.
20 Plaintiff further alleges that the absence of a prior merits adjudication of these
21 federal constitutional and supremacy issues is attributable to procedural posture,
22 including the denial of Plaintiff's request for limited intervention under Federal
23 Rule of Civil Procedure 24 in related proceedings, and not to waiver, forfeiture,
24 or prior judicial resolution. Accordingly, the federal interests implicated here—
25 including the supremacy of federal funding conditions, the integrity of federally
26 regulated elections, and the obligation of Article III courts to provide full merits
27 adjudication of structural constitutional claims—remain live, unresolved, and
28 appropriate for review in this action.

1 Accordingly, federal election funds may not be used—directly or indirectly—at
2 facilities where alcohol is sold or dispensed, regardless of physical separation,
3 timing, or creative structuring. When such funds are used notwithstanding these
4 restrictions, the issue presented is not one of administrative discretion or state
5 policy preference, but objective federal noncompliance. Such noncompliance
6 undermines the conditions Congress attached to federal election funding,
7 implicates the Supremacy Clause, and creates a structural defect in election
8 administration as a matter of federal law. The United States has a paramount
9 interest in ensuring that federally funded elections are conducted in strict
10 compliance with governing federal statutes and regulations, and that violations
11 are subject to full merits adjudication rather than insulated by interim election
12 administration or post hoc reliance.
13

14 **I. PRELIMINARY STATEMENT**

15 On November 4, 2025, the State of California conducted a statewide special
16 election on Proposition 50. The measure was presented to voters as a routine
17 constitutional amendment, administered through established election procedures,
18 and implemented as binding law with prospective effect on statewide elections
19 and redistricting.
20

21 This First Amended Complaint alleges that the process by which Proposition 50
22 was enacted, administered, and subsequently treated as settled authority was not
23 routine.
24

25 This filing is submitted to preserve a complete and accurate public record of that
26 chain.
27

28 As alleged here, two independent legal constraints governed the actions at issue.
29

1 First, constitutional authority. The California Constitution recognizes
2 circumstances of executive “temporary disability” under Article V, section 10,
3 during which certain acts taken without lawful authority are void from inception.
4 Plaintiff alleges that core components of the Proposition 50 legislative and
5 administrative package were enacted and implemented during such a period,
6 rendering them void *ab initio*, incapable of cure by later reliance,
7 implementation, or voter approval.
8

9 Second, federal supremacy. State election administration that implicates federally
10 governed election funds is subject to binding federal conditions. Where state
11 enactments and implementation conflict with those conditions, they are
12 preempted under the Supremacy Clause. Plaintiff alleges that the administration
13 of Proposition 50 implicated federal election funding restrictions, raising
14 questions that extend beyond state law and into federal oversight.

15 In particular, this action challenges the federally funded implementation of
16 California’s election framework under Proposition 50 and its enabling legislation,
17 including Assembly Bill 2037, Assembly Constitutional Amendment 8, Senate
18 Bill 280, and Assembly Bill 604. California administers statewide elections using
19 federal election grants provided through the U.S. Election Assistance
20 Commission pursuant to the Help America Vote Act and related appropriations,
21 all of which are subject to the Uniform Guidance and the categorical prohibition
22 in 2 C.F.R. § 200.423 against the use of federal funds in connection with alcohol-
23 serving facilities. Although AB 2037 authorizes polling locations in facilities that
24 sell or serve alcohol under state law, federal grant conditions remain controlling
25 and non-waivable. Because federally funded election infrastructure is deployed
26 system-wide, the placement of polling locations in alcohol-serving venues
27

1 necessarily implicates federal funds and creates a structural conflict with binding
2 federal cost-allowability rules. This action seeks declaratory and prospective
3 relief to ensure that congressional redistricting maps and future statewide
4 elections implemented pursuant to Proposition 50 are administered in compliance
5 with federal election-funding law, independent of the outcome of prior elections
6 or interim rulings.

7 These allegations are presented as matters of record, not rhetoric.

9 The significance of this case does not rest solely on the challenged election. It
10 rests on how those enactments and administrative actions were subsequently
11 treated—by state officials and by federal courts—as settled and operative
12 authority, despite unresolved constitutional and federal-law questions apparent on
13 the face of the record.

14 This filing therefore necessarily addresses not only executive and legislative
15 actions, but also the institutional handling of those actions within the federal
16 judicial system, including proceedings in the United States District Court for the
17 Central District of California and the United States Court of Appeals for the
18 Ninth Circuit. The issue presented is not the good faith of individual judges, but
19 whether the judicial process functioned as a neutral forum capable of timely and
20 complete adjudication of structural constitutional claims with statewide
21 consequences.

22 Plaintiff alleges that it did not.

23 As detailed below, the record reflects jurisdictional anomalies, procedural
24 compression, and adjudicative outcomes that permitted the continued
25 enforcement of challenged election frameworks without a full merits

1 determination of the governing constitutional and federal-law constraints. These
2 are not allegations of motive. They are descriptions of institutional outcomes,
3 grounded in dates, filings, orders, and publicly verifiable proceedings.

4 The audience for this filing therefore extends beyond the immediate court. This
5 document is submitted as a record vehicle for review by the American people, the
6 United States Congress—which holds legislative and oversight authority over
7 federal courts and constitutional governance—the United States Supreme Court,
8 and the Judicial Conference of the United States, which bears responsibility for
9 the integrity of the federal judicial system.

10
11 The question presented is narrow, but consequential:

12
13 If statewide election laws and redistricting measures were advanced and enforced
14 without lawful authority, and if federal funding conditions were implicated in that
15 enforcement, then the continued treatment of those measures as settled law—
16 without full adjudication—represents a systemic failure that must be documented
17 before it is normalized.

18 What follows is that documentation.

19
20 **II. JURISDICTION AND STATUTORY FRAMEWORK**

21 This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C.
22 §§ 1331 and 1343 because this case arises under the Constitution and laws of the
23 United States, including the Supremacy Clause of the United States Constitution
24 and federal statutes governing election administration and federally funded
25 election infrastructure.

1 This Court further has jurisdiction under the Declaratory Judgment Act, 28
2 U.S.C. §§ 2201–2202. Plaintiff seeks declaratory and prospective injunctive
3 relief to resolve actual and ongoing controversies concerning the constitutional
4 validity and continuing legal effect of statewide election laws and redistricting
5 measures that govern future elections, including those scheduled for June and
6 November 2026 and subsequent election cycles.

7 Jurisdiction is proper because Plaintiff alleges continuing and prospective injury
8 resulting from the enforcement and treatment of Proposition 50 and related
9 election frameworks as settled and operative authority, despite unresolved
10 constitutional and federal-law defects. The challenged enactments and
11 administrative actions continue to govern election administration and redistricting
12 and therefore present live controversies capable of redress through declaratory
13 and prospective relief.

15 This Court’s jurisdiction does not depend on the ultimate merits of Plaintiff’s
16 claims. Where substantial constitutional questions are presented and prospective
17 relief is sought, jurisdiction exists to adjudicate those questions and to determine
18 the lawful scope of state authority when federal constitutional and statutory
19 constraints are implicated.

21 **Mandatory Three-Judge Court Requirement (28 U.S.C. § 2284)**

22 This action is subject to the mandatory three-judge court requirement under 28
23 U.S.C. § 2284(a) because it challenges the constitutionality of the apportionment
24 and redistricting framework governing congressional elections on a statewide
25 basis and seeks declaratory and prospective injunctive relief restraining the
26 enforcement and continued legal effect of those provisions.

1 Pursuant to 28 U.S.C. § 2284(b)(1), the district judge to whom this action is
2 assigned is required to immediately notify the chief judge of the circuit, who shall
3 designate two other judges to serve on a three-judge district court. The statute
4 imposes a nondiscretionary obligation to convene such a court where the
5 pleading presents a substantial constitutional challenge to statewide redistricting
6 or apportionment measures.

7
8 Plaintiff expressly invokes 28 U.S.C. § 2284 for purposes of jurisdictional
9 compliance and record preservation. This invocation is independent of any request
10 for expedited relief and is made to ensure that the statutory adjudicative structure
11 mandated by Congress is observed before any merits determination concerning the
12 constitutionality or continued enforcement of the challenged election framework.
13 Plaintiff further alleges that although related election-law proceedings were heard
14 by a three-judge district court pursuant to 28 U.S.C. § 2284, Plaintiff was not a
15 party to those proceedings and did not receive a merits adjudication of the
16 constitutional and federal-law claims alleged here. Plaintiff sought limited
17 intervention under Federal Rule of Civil Procedure 24 for the purpose of presenting
18 these issues and was denied leave to intervene. Accordingly, no prior proceeding
19 resolved the merits of the claims asserted in this action, and jurisdiction properly
20 lies in this Court to adjudicate them in the first instance.

1 **III. THE PARTIES**

2 1. Plaintiff **Carl Gordon** is a resident of California and a registered
3 California voter. Plaintiff proceeds **pro se**. Plaintiff brings this action in his
4 capacity as a voter and public participant in California elections and as a
5 former fee-paying potential replacement candidate in the 2021 California
6 gubernatorial recall election. Plaintiff seeks declaratory and prospective
7 injunctive relief only.

8 2. Defendant Gavin Newsom is the Governor of the State of California and is
9 sued in his official capacity only. At all relevant times, Defendant Newsom
10 exercised executive authority over statewide election administration,
11 including the approval, implementation, and enforcement of election-
12 related statutes, redistricting measures, and the administration of elections
13 conducted using federally supported election infrastructure.

14 3. Defendant Shirley N. Weber is the California Secretary of State and is sued
15 in her official capacity only. At all relevant times, Defendant Weber served
16 as the State's chief elections officer and was responsible for the
17 administration, oversight, and certification of statewide elections, including
18 elections conducted pursuant to Proposition 50 and related statutory
19 frameworks

20 Defendants DOES 1 through 10 are persons or entities whose
21 identities are presently unknown to Plaintiff but who participated in,
22 exercised authority over, or contributed to the enactment, administration,
23 funding, oversight, or enforcement of the election frameworks challenged
24 in this action. Plaintiff will seek leave of Court to amend this Complaint to
25 substitute the true names and capacities of these defendants when their
26 identities are ascertained.

1 4. Each Defendant is sued solely for official actions alleged to have been
2 taken under color of state or federal law. Plaintiff does not seek damages
3 against any Defendant and does not assert claims against Defendants in
4 their individual capacities.

5 **IV. CHRONOLOGICAL STATEMENT OF FACTS**

6 *This section records what happened, in order. It is not argument. It is the record.*

8 **A. Executive Order N-03-19¹ and Acknowledged Conflict (January 7, 2019)**

9 On January 7, 2019, Governor Gavin Newsom issued Executive Order N-03-19,
10 prohibiting state agencies from entering contracts with entities in which he or his
11 family held financial interests. The Order expressly identified the PlumpJack
12 Group, a network of alcohol-serving establishments, as a covered interest.

13 By issuing this Order, Governor Newsom formally acknowledged the existence
14 of a disqualifying conflict of interest under California law, including Government
15 Code §§ 87100, 8920, and 1090.

24
25 1 Executive Order N-03-19 does not grant Governor Newsom immunity from Government Code
26 § 87100, § 815.6, federal Help America Vote Act (HAVA) requirements, or recall-related
27 constitutional constraints. The Order is legally incapable of conferring immunity and instead
28 constitutes probative evidence of conflict awareness, duty recognition, and foreseeable risk, none
 of which excuse unlawful participation in conflicted or federally preempted election decisions.

B. Initiation of the Gubernatorial Recall (February 20–21, 2020)

1. On February 20–21, 2020, a *Notice of Intention to Recall Governor Gavin Newsom* was filed and file-stamped by the California Secretary of State, Alex Padilla, pursuant to California Elections Code §§ 11020–11023. From that date forward, the recall of the Governor Gavin Newsom was formally initiated as a matter of statutory law.
2. Article II, Section 14(a) of the California Constitution provides:

“Recall of a state officer is initiated by delivering to the Secretary of State a petition alleging reason for recall. Sufficiency of reason is not reviewable.
3. Article II, Section 14(a) is self-executing and defines the precise constitutional moment at which a recall is *initiated*: delivery of the recall petition to the Secretary of State. Judicial review of the sufficiency of the stated reason is expressly prohibited.
4. The filing and file-stamping of the Notice of Intention to Recall on February 20–21, 2020 therefore constituted constitutional initiation of the gubernatorial recall within the meaning of Article II, Section 14(a).
5. The initiation of the recall triggered Article II, Section 17 of the California Constitution, which provides:

“If recall of the Governor or Secretary of State is initiated, the recall duties of that office shall be performed by the Lieutenant Governor or Controller, respectively.”
6. Article II, Section 17 is self-executing and does not require judicial enforcement or legislative implementation to take effect. Upon initiation of

1 the recall, recall-related duties of the Governor were reassigned by
2 operation of law.

3 **C. Constitutional Disability and Mandatory Transfer of Authority**

4 4. Article V, Section 10 of the California Constitution provides that when the
5 Governor is subject to a constitutional prohibition, that condition
6 constitutes a “temporary disability” of the office.

7 5. In *In re Governorship*, 26 Cal. 3d 110, 134–36 (1979), the California
8 Supreme Court held that a constitutional prohibition on the exercise of
9 gubernatorial authority operates as a legal disability requiring mandatory
10 substitution of authority, and that duties affected by such a disability must
11 be performed by the constitutionally designated substitute officer.

12 6. Under *In re Governorship*, a constitutional disability does not suspend the
13 existence of the office itself but limits the lawful authority of the
14 officeholder to act with respect to matters within the scope of the
15 disability.

16 7. From February 20–21, 2020 forward, recall-related duties of the Governor
17 were therefore constitutionally assigned to the Lieutenant Governor as a
18 matter of law.

19 **D. Legal Effect of Constitutional Disability on Subsequent Election
20 Legislation**

21 8. The constitutional reassignment of recall-related authority described above
22 had immediate legal effect.

1 9. From February 20–21, 2020 forward, Governor Newsom lacked lawful
2 authority to perform recall-related or election-administration duties within
3 the scope of the recall, including approving legislation governing polling-
4 place eligibility and election funding.

5 10. Any executive action taken by Governor Newsom thereafter with respect
6 to recall-related election statutes was therefore ultra vires and without
7 constitutional force.

8 11. Notwithstanding this constitutional disability, Governor Newsom signed
9 and implemented Senate Bill 423 (2020) and Senate Bill 152 (2021), each
10 of which added identical operative language through § 1603(c).

11 12. Because this language directly governed polling-place eligibility and
13 election administration during an active gubernatorial recall, and because
14 recall-related duties had been constitutionally reassigned to the Lieutenant
15 Governor, Governor Newsom lacked authority to approve or implement §
16 1603(c) in either SB 423 or SB 152.

17 13. The repetition of identical language across election cycles confirms a
18 continuing course of action taken during a period of constitutional
19 disability by Governor Newsom.

20 **E. Senate Bill 423 (2020) — Presidential Election Cycle**

21 1. On January 7, 2019, Governor Newsom issued Executive Order N-03-19
22 addressing conflicts of interest tied to his ownership interests in alcohol-serving
23 businesses operated by the PlumpJack Group. The Order barred state executive
24 agencies from contracting with those entities and reflects the conflict-of-interest
25

1 prohibitions embodied in Government Code §§ 87100, 8920, and 1090. The
2 inference is clear that California Fair Political Practices Commission conflict-of-
3 interest laws and regulations motivated the issuance of the Order.

4 **2.** Notwithstanding the issuance of Executive Order N-03-19 in 2019, and
5 notwithstanding his constitutional and statutory disqualification arising from a
6 temporary legal disability under *In re Governorship* (1979) 26 Cal.3d 110,
7 triggered by the initiation of the gubernatorial recall on February 20–21, 2020,
8 Governor Newsom approved and signed Senate Bill 423 (2020) into law on
9 August 6, 2020, during the 2020 presidential election cycle, authorizing polling
10 places to operate in alcohol-serving establishments.

12 **3.** Section 1603(c) of Senate Bill 423 temporarily repealed California Elections
13 Code § 12288, a long-standing statutory prohibition on polling places operating
14 in establishments whose primary purpose is the sale or service of alcoholic
15 beverages.

16 **4.** By temporarily repealing Elections Code § 12288, SB 423 § 1603(c)
17 authorized polling places to operate in bars and restaurants and further authorized
18 the use of federal grant funds, including Help America Vote Act (HAVA) and
19 CARES Act election funds, to lease, equip, staff, and maintain alcohol-serving
20 locations as polling sites during the November 2020 presidential election.

22 **5.** Governor Newsom's execution and implementation of SB 423 and SB 152
23 occurred while he retained ownership interests in alcohol-serving businesses,
24 after he had issued Executive Order N-03-19 acknowledging the need for
25 safeguards against conflicted decision-making in matters involving such entities,

1 and during a period in which recall-related duties had been reassigned by
2 operation of Article II, Section 17 of the California Constitution.

3 **F. Senate Bill 152 (2021) — Gubernatorial Recall Election Cycle**

4

5 **7.** On June 28, 2021, Governor Newsom signed Senate Bill 152 (2021) into law.

6 **8.** Senate Bill 152 again adopted identical operative language through § 1603(c),
7 extending and reaffirming the same authorization first enacted in 2020,
8 permitting polling places to operate in alcohol-serving establishments during the
9 2021 gubernatorial recall election.

10

11 **9.** SB 152 further continued the use of federal election funds, including HAVA-
12 related funding, to lease, equip, staff, and maintain alcohol-serving locations as
13 polling places during the recall election.

14

15 **10.** By June 28, 2021, Governor Newsom was subject to an active gubernatorial
16 recall. Under Article II, Section 17 and Article V, Section 10 of the California
17 Constitution, recall-related election duties had been constitutionally reassigned to
18 the Lieutenant Governor as a matter of law in February 2020.

19

20 **11.** Governor Newsom therefore lacked constitutional authority to approve or
21 implement SB 152 § 1603(c). His execution of that statute constituted an *ultra*
22 *vires* act taken during a period of constitutional disability under Article V,
23 Section 10 of the California Constitution and *In re Governorship* (1979) 26 Cal.
24 3d 110, 134–36.

1 **G. Void Ab Initio Carry-Forward Effect**

2 **12.** Under settled constitutional doctrine, actions taken by an official who lacks
3 constitutional authority at the time of action are void ab initio.

5 **13.** Where authority is withdrawn by operation of the Constitution, subsequent
6 executive approval cannot validate the act, nor can later legislative reliance, voter
7 participation, or administrative implementation cure the defect.

8 **14.** Accordingly, SB 423 § 1603(c) and SB 152 § 1603(c) are void from inception
9 to the extent they were approved or implemented by California Governor Gavin
10 Newsom while constitutionally disqualified from exercising recall-related
11 authority and while subject to conflict-of-interest prohibitions under California
12 law administered by the Fair Political Practices Commission.

14 **15.** All California statewide elections and special election procedures conducted
15 from 2020 through 2025, including the November 4, 2025 special election
16 conducted pursuant to the Election Rigging Response Act, as well as the polling-
17 place authorizations and funding decisions flowing from those provisions, inherit
18 the same constitutional defect.

19 **H. Condensed Timeline of the Constitutional and Statutory Sequence**

21 *(For Record Clarity)*

22 **16.** January 7, 2019 — Governor Newsom issues Executive Order N-03-19,
23 addressing conflicts of interest involving the PlumpJack Group and alcohol-
24 serving businesses.

26 **17.** February 20–21, 2020 — Notice of Intention to Recall Governor Gavin
27 Newsom is filed and file-stamped by the California Secretary of State; Article II,

1 Section 17 of the California Constitution is triggered; recall-related duties are
2 reassigned by operation of law.

3 **18.** August 6, 2020 — Governor Newsom signs Senate Bill 423 § 1603(c),
4 temporarily repealing Elections Code § 12288 and authorizing polling places in
5 alcohol-serving establishments during the presidential election.

6 **19.** June 28, 2021 — Governor Newsom signs Senate Bill 152 § 1603(c), using
7 identical language to extend the same authorization during the gubernatorial
8 recall election.

10 **20.** 2022 — Assembly Bill 2037 permanently amends Elections Code § 12288,
11 carrying forward the policy first enacted during the period of constitutional
12 disability.

13 **21.** 2024–2025 — Statewide elections, including the November 4, 2025,
14 Proposition 50 special election, are conducted under this statutory framework.

16 **V. FEDERAL PREEMPTION, CONSTITUTIONAL DISABILITY, AND**
17 **VOID ENACTMENT AND IMPLEMENTATION OF AB 2037 AS**
18 **APPLIED TO PROPOSITION 50 AND THE 2026 STATEWIDE**
19 **ELECTIONS**

21 **1.** Assembly Bill 2037 (Flora, 2022) amended California Elections Code § 12288
22 to authorize the placement of polling locations in facilities that sell or serve
23 alcoholic beverages, provided the polling area is physically separated from
24 alcohol service. AB 2037 thus permits polling locations in mixed-use facilities
25 whose commercial operations include alcohol sales.

1 **2.** Federal law expressly prohibits the use of federal funds to subsidize alcohol-
2 related costs. Under 2 C.F.R. § 200.423, “[c]osts of alcoholic beverages are
3 unallowable” for purposes of federal awards, including election-related grants
4 administered pursuant to the Help America Vote Act (“HAVA”), 52 U.S.C. §§
5 20901–21145.

6 **3.** Although AB 2037 is not facially invalid under state law, it is preempted under
7 the Supremacy Clause of the United States Constitution, Article VI, Clause 2, to
8 the extent it is implemented using federal election funds in a manner that
9 subsidizes, reimburses, or otherwise supports alcohol-related operations. Where
10 state authorization conflicts with federal funding conditions, federal law controls.

12 **4.** This federal conflict applies with particular force to Proposition 50 and to the
13 June 2026 statewide primary election and November 2026 statewide general
14 election, each of which constitutes federally regulated election activity for which
15 California has historically relied upon, and is reasonably expected to rely upon,
16 federal HAVA funds subject to 2 C.F.R. Part 200.

18 **5.** To the extent state or county election officials place polling locations for
19 Proposition 50 or the 2026 statewide elections in facilities that sell or serve
20 alcohol, and then use federal funds to pay for facility rental, utilities, staffing,
21 security, equipment, or other shared overhead expenses that subsidize alcohol-
22 related operations, such expenditures violate 2 C.F.R. § 200.423 and are
23 unlawful.

24 **6.** Compounding this federal violation, Governor Gavin Newsom was
25 constitutionally disqualified from participating in legislation and executive
26 actions affecting alcohol-related election infrastructure due to his ongoing
27

1 financial interest in the PlumpJack Group, which owns and operates alcohol-
2 serving establishments throughout California.

3 **7.** Under Article V, Section 10 of the California Constitution, when the Governor
4 is unable to lawfully discharge the powers and duties of office, those powers and
5 duties devolve upon the Lieutenant Governor. In *In re Governorship*, 26 Cal. 3d
6 110 (1979), the California Supreme Court confirmed that a Governor’s
7 constitutional “disability” is not limited to physical incapacity and includes legal
8 incapacity arising from conflicts of interest that prevent the lawful exercise of
9 executive authority.

10 **8.** Governor Newsom’s ownership interest in the PlumpJack Group, combined
11 with his January 7, 2019 Executive Order N-03-19 acknowledging such conflicts,
12 rendered him constitutionally disabled from lawfully participating in executive or
13 legislative acts authorizing or expanding the use of alcohol-connected facilities
14 for election infrastructure, including the signing of AB 2037 (2022) and related
15 enactments governing Proposition 50 and subsequent statewide elections.

16 **9.** Actions taken by a constitutionally disabled Governor are void *ab initio*.
17 Because AB 2037 and related election-enabling statutes were signed by an
18 official acting without constitutional authority, their implementation—
19 particularly in federally funded statewide elections—cannot lawfully override
20 federal funding restrictions or cure Supremacy Clause violations.

21 **10.** Accordingly, the enactment and implementation of AB 2037, as applied to
22 Proposition 50, the June 2026 statewide primary election, and the November
23 2026 statewide general election, where federal election funds are used in
24 violation of 2 C.F.R. § 200.423, is preempted by federal law and void as applied.

1 Voter approval or subsequent administrative reliance cannot cure a constitutional
2 and federal-law defect that existed at inception.

3 **VI. FEDERALLY FUNDED ELECTION ADMINISTRATION UNDER AB
4 2037 AND PROPOSITION 50 VIOLATES HAVA AND EAC GRANT
5 CONDITIONS**

6

7 1. Federal election administration in California is funded in material part
8 through grants administered by the U.S. Election Assistance Commission
9 (“EAC”) pursuant to the Help America Vote Act (“HAVA”), 52 U.S.C. §§
10 20901–21145, and related federal appropriations, including CARES Act
11 election funding.

12

13 2. HAVA funds are not general revenue. They are conditional federal grants,
14 accepted by the State of California and its counties subject to compliance
15 with federal statutes, regulations, and cost-allowability rules, including the
16 Uniform Administrative Requirements, Cost Principles, and Audit
17 Requirements for Federal Awards, codified at 2 C.F.R. Part 200.

18

19 3. Among those binding conditions is 2 C.F.R. § 200.423, which provides
20 categorically that “[c]osts of alcoholic beverages are unallowable.” This
21 prohibition applies not only to direct purchases, but to any use of federal
22 funds that subsidizes, offsets, or materially supports alcohol-serving
23 operations.

24

25 4. Assembly Bill 2037 (2022) authorizes polling locations in facilities that
26 sell or serve alcohol, provided the polling area is physically separated from
27 alcohol service. While AB 2037 purports to regulate polling-place

28

1 eligibility under state law, it does not—and cannot—alter the conditions
2 attached to federal election funds.

3

4 5. **Proposition 50**, together with its enabling and implementing legislation—
5 including Assembly Constitutional Amendment 8 (ACA 8), Senate Bill
6 280, and Assembly Bill 604—requires the administration of statewide
7 elections using the same federally funded election infrastructure relied
8 upon in prior election cycles, including voting equipment, staffing,
9 accessibility accommodations, and election security measures funded in
10 whole or in part with HAVA and EAC-administered funds.

11

12 6. In practice, California’s election system operates as an integrated, system-
13 wide deployment of federally funded resources, not as isolated site-specific
14 expenditures. Voting equipment, ballot-on-demand systems, secure
15 storage, cybersecurity measures, training, and staffing funded with federal
16 grants are routinely deployed across polling locations within a county’s
17 election plan.

18

19 7. As a result, when polling locations authorized under AB 2037 include
20 facilities that sell or serve alcohol, federal election funds necessarily touch
21 those sites, either directly or indirectly, through:
22

23 ○ placement and operation of federally funded voting equipment;
24

25 ○ staffing and training costs supported by federal grants;

26 ○ security, accessibility, and compliance measures required by federal
27 law; and

28 ○ overhead costs that subsidize the venue’s continued operation.

- 1 8. Federal grants law does not permit states to avoid cost-allowability rules
2 through physical separation, temporary suspension of alcohol service, or
3 creative allocation of expenses. Where federal funds reduce the cost of
4 operating an alcohol-serving facility, even indirectly, the prohibition of §
5 200.423 is violated.
- 6 9. The EAC has no authority to waive cost-principle restrictions imposed by
7 OMB, and states may not override those restrictions through ballot
8 measures, statutes, or election regulations. Acceptance of federal election
9 funds binds the recipient to federal conditions as a matter of law.
- 10 10. Accordingly, even apart from questions of state constitutional authority,
11 the administration of Proposition 50 and related statewide elections using
12 AB 2037-authorized polling locations conflicts with federal grant
13 conditions whenever federal election funds are used, rendering such
14 implementation unlawful under federal law.
- 15 11. This conflict is structural rather than episodic. Because federal election
16 funds are deployed system-wide, the placement of even a subset of polling
17 locations in alcohol-serving venues taints the funding stream supporting
18 the entire election.
- 19 12. The use of federal funds under these circumstances exposes the State and
20 its subdivisions to:
 - 21 • disallowance and clawback of federal election funds;
 - 22 • adverse audit findings by federal Inspectors General;
 - 23 • loss of eligibility for future HAVA or EAC grants; and

- potential liability under the False Claims Act, 31 U.S.C. §§ 3729–3733, for false certification of compliance with federal grant conditions.

13. Declaratory and prospective injunctive relief are therefore necessary to ensure that future statewide elections conducted pursuant to Proposition 50 and its enabling legislation comply with federal election-funding law, irrespective of the outcome of prior elections or interim judicial rulings addressing only election administration mechanics.

VII. VOID AB INITIO LEGISLATIVE PACKAGE ENACTED AND IMPLEMENTED DURING CONSTITUTIONAL DISABILITY

1. “*Void ab initio*” means void from the beginning and without legal effect. An enactment adopted or approved by an official acting without constitutional authority is a nullity, confers no rights, imposes no obligations, and cannot be cured by subsequent events, including voter approval, legislative reliance, or administrative implementation.

2. As alleged above, Governor Gavin Newsom was constitutionally disabled under Article V, Section 10 of the California Constitution due to a disqualifying conflict of interest arising from his ownership interest in the PlumpJack Group and his participation in legislation and executive action affecting alcohol-related election infrastructure. Under *In re Governorship*, 26 Cal. 3d 110 (1979), such legal incapacity constitutes a constitutional “disability,” during which the powers and duties of the Governor devolve upon the Lieutenant Governor.

3. Notwithstanding this constitutional disability, Governor Newsom promoted, endorsed, and approved a coordinated legislative package designed to place Proposition 50 on the ballot, fund and administer a statewide special election, and

1 implement contingent congressional redistricting measures. That package
2 included, *inter alia*:

3 **a.** Assembly Constitutional Amendment 8 (Rivas, McGuire), which purports to
4 authorize adoption of a new, temporary congressional map in response to
5 redistricting actions in another state;

6 **b.** Senate Bill 280 (Cervantes, Pellerin), which establishes the timelines and
7 procedures for conducting a statewide special election for Proposition 50 and
8 appropriates funding for the election held on November 4, 2025; and

9 **c.** Assembly Bill 604 (Aguiar-Curry, Gonzalez), which establishes temporary
10 congressional district maps to take effect contingent upon voter approval of ACA 8.

11 **4.** This legislative package was publicly announced and advanced as part of a
12 unified executive framework attributed to Governor Newsom, unveiled at the
13 Democracy Center in Los Angeles, and promoted in coordination with advocacy
14 organizations, labor unions, community groups, educators, and elected officials at
15 the federal, state, and local levels.

16 **5.** Because Governor Newsom was constitutionally disabled at the time he
17 promoted, approved, and caused the enactment and implementation of ACA 8, SB
18 280, and AB 604, his actions exceeded his lawful authority. Under Article V,
19 Section 10 of the California Constitution, those powers had devolved to the
20 Lieutenant Governor, and Governor Newsom lacked constitutional capacity to act.

21 **6.** Acts taken by a constitutionally disabled executive are void *ab initio*.

22 Accordingly, ACA 8, SB 280, and AB 604—having been enacted and

1 implemented pursuant to executive action taken during a period of constitutional
2 disability—are nullities from inception and lack lawful force or effect.

3 **7.** Moreover, to the extent this void legislative package was implemented using
4 federal election funds, including funds governed by the Help America Vote Act
5 and the cost-allowability rules of 2 C.F.R. § 200.423, its enforcement
6 independently violates the Supremacy Clause of the United States Constitution.

7 **8.** Because ACA 8, SB 280, and AB 604 continue to be invoked as governing law
8 for statewide elections and redistricting processes beyond Proposition 50,
9 including the June 2026 statewide primary election and the November 2026
10 statewide general election, declaratory and prospective injunctive relief are
11 necessary to prevent ongoing violations of federal and state constitutional law.

12 **9.** Plaintiff alleges and preserves the theory that the invalidity of this legislative
13 package is not cured by subsequent voter approval, legislative reliance, or
14 administrative implementation. This allegation is maintained notwithstanding the
15 January 14, 2026 ruling by a federal three-judge panel of the United States
16 District Court for the Central District of California in *David Tangipa, et al. v.*
17 *Gavin Newsom*, which, pursuant to 28 U.S.C. § 2284, permitted the continued use
18 of congressional maps adopted in connection with Proposition 50 for the 2026
19 midterm elections. (*That ruling addressed only interim election administration*
20 *and did not reach the merits of the underlying constitutional validity of the*
21 *enabling legislation, the existence or effect of gubernatorial constitutional*
22 *disability, or the federal preemption issues alleged here.*) Plaintiff further alleges
23 that he sought limited intervention in the *Tangipa* proceeding pursuant to Federal
24 Rule of Civil Procedure 24 for the purpose of presenting these constitutional and
25

1 federal-law issues and was denied leave to intervene, and therefore did not
2 receive a merits adjudication of the claims alleged here. Plaintiff pleads this
3 allegation expressly to preserve the record and to disclaim any inference of issue
4 preclusion, claim preclusion, waiver, or merits adjudication arising from the
5 *Tangipa* proceeding, as jurisdictional or threshold rulings “do not resolve the
6 merits of the dispute.” *Steel Co. v. Citizens for a Better Environment*, 523 U.S.
7 83, 101 (1998).

8

9 **VIII. BACKGROUND AND GOVERNING FEDERAL LAW**

10 (*Settled Federal Grants Law — Not Discretionary Policy*)

11

12 **A. The Governing Federal Restriction**

- 13 1. 2 C.F.R. § 200.423 (Alcoholic Beverages) is a binding federal cost-
14 principle regulation promulgated under the Office of Management and
15 Budget’s Uniform Guidance and applies to all federal grants, including
16 election grants administered pursuant to the Help America Vote Act
17 (“HAVA”), 52 U.S.C. §§ 20901–21145, and CARES Act election funding.
- 18 2. Section 200.423 provides, without qualification, that “[c]osts of alcoholic
19 beverages are unallowable.” Under settled federal grants law, this
20 prohibition is interpreted broadly, not narrowly. It bars not only the direct
21 purchase of alcohol, but also the use of federal funds in ways that
22 subsidize, support, or are materially connected to alcohol-serving
23 environments.
- 24 3. This regulation is not discretionary policy. It is a categorical condition of
25 federal funding imposed government-wide pursuant to 31 U.S.C. §§ 503

1 and 6301–6308, and is binding on all recipients once federal funds are
2 accepted.

3 **B. Application to Elections and Polling Places**

4 4. When federal election funds—including HAVA funds, CARES Act
5 election funds, or federally supported election infrastructure—are used for:

- 6 ○ polling-place rental or leasing;
- 7 ○ deployment or reuse of voting equipment;
- 8 ○ staffing, security, or accessibility improvements;
- 9 ○ vote-by-mail or in-person infrastructure reused at physical sites; or
- 10 ○ reimbursement of county election-administration costs;

11 those funds may not be used in facilities where alcohol is sold or dispensed.

12 5. This prohibition applies regardless of:

- 13 ○ whether alcohol sales are “incidental”;
- 14 ○ whether alcohol is sold in a different room;
- 15 ○ whether alcohol service is suspended during voting hours;
- 16 ○ whether alcohol sales are handled by a different legal entity; or
- 17 ○ whether the polling area is physically separated by partitions or
18 signage.

19 6. Federal grants law evaluates the facility as a whole, not creative
20 compartmentalization. If a facility’s ordinary commercial function includes

1 alcohol sales, federal funds may not lawfully support election activities
2 conducted there.

3 **C. The “Regardless of Separation” Rule**

4 7. Federal cost-principle enforcement does not permit:

5 o “different room” arguments;
6 o “bar closed during voting” arguments;
7 o “separate lease” or “separate operator” arguments; or
8 o “multi-use facility” justifications where alcohol is part of the
9 venue’s business model.

10 8. The reason is structural: using federal funds at such locations offsets rent,
11 utilities, staffing, insurance, security, depreciation, and infrastructure costs,
12 thereby indirectly subsidizing alcohol-serving operations, which § 200.423
13 categorically forbids.

14 **D. Direct Application to HAVA Funds**

15 9. HAVA funds are federal grant funds, subject to the Uniform Guidance at 2
16 C.F.R. Part 200, and restricted to lawful election-administration purposes.

17 10. Accordingly, any polling place located in a bar, winery, brewery,
18 restaurant with alcohol service, hotel lounge, or similar venue is federally
19 disqualified if federal funds are used anywhere in the election system
20 supporting that site, including through reuse of federally funded equipment
21 or infrastructure.

1 **E. Why This Is Not a Technicality**

2 11. Federal agencies treat violations of § 200.423 as compliance and fraud
3 matters, not paperwork errors. Such violations can trigger:

4

5 • grant disallowance and clawback;

6 • Inspector General referrals;

7 • loss of future grant eligibility; and

8 • False Claims Act exposure.

9 12. In the election context, such violations additionally result in structural
10 noncompliance, tainting election administration and undermining federal-
11 law compliance governing the integrity of the electoral process.

12 **F. Rejection of “Separation” Arguments**

13 13. Courts and auditors consistently reject arguments such as:

14

15 • “the bar area was roped off”;

16 • “alcohol was not sold during voting”;

17 • “the polling place was only a conference room”; or

18 • “the venue is primarily something else.”

19 14. Because the venue’s revenue model includes alcohol, and federal funds
20 indirectly support that venue’s operations, separation theories fail as a
21 matter of law.

1 **G. Settled Federal Grants Law**

2 15. The Uniform Guidance is implemented government-wide, not agency-by-
3 agency. Agencies cannot waive it by preference, states cannot override it
4 by statute, and courts treat it as a binding condition of federal funds.
5

6 16. In federal grants law, “unallowable” means categorically barred, not
7 subject to balancing, equitable exceptions, or good-faith defenses. Alcohol
8 is grouped with absolute prohibitions such as lobbying and entertainment,
9 not discretionary costs.

10 17. Federal auditors evaluate whether federal funds subsidized or freed
11 resources for alcohol-serving operations, including rent, utilities, staffing,
12 security, infrastructure, equipment placement, and commercial benefit.
13 Even temporary use creates a prohibited subsidy.
14

15 18. This doctrine has been applied for decades by OMB, GAO, and **Inspectors**
16 **General** across federal grant programs, including election grants. Election
17 administration is not exempt.

18 **H. Supremacy Clause Consequences**

19 20. Under the Supremacy Clause of the United States Constitution, Article VI,
21 Clause 2, state authorization of polling locations in alcohol-serving venues
22 does not confer federal permission to use federal funds at those locations.

23 20. A state may authorize the location, but federal funds may not touch it.
24 Where federal election funds are used system-wide and polling places
25 include alcohol-serving venues, the violation is structural, not site-specific,
26 and taints the entire funding stream.
27

1 **Accordingly**

2 21. Federal election funds may not be used—directly or indirectly—at
3 facilities where alcohol is sold or dispensed, regardless of physical
4 separation, timing, or creative structuring.
5

6 22. When such funds are used anyway, the issue is not administrative
7 discretion but objective federal noncompliance, potentially constituting
8 false certification and creating a structural defect in election administration
9 as a matter of law.

10 **CLAIMS FOR RELIEF**

11 **CLAIM ONE**

12 **(Supremacy Clause — Federal Preemption)**
13 *(Against All Defendants in Their Official Capacities)*

14 Plaintiff realleges and incorporates by reference all preceding paragraphs as
15 though fully set forth herein.

16 The Supremacy Clause of the United States Constitution, Article VI, Clause 2,
17 provides that federal law is the supreme law of the land and preempts conflicting
18 state law and state practices.

19 California administers statewide elections using federal election grants provided
20 through the United States Election Assistance Commission pursuant to the Help
21 America Vote Act (“HAVA”), 52 U.S.C. §§ 20901–21145, and related federal
22 appropriations. Those funds are subject to the Uniform Guidance, including the
23

1 categorical prohibition in 2 C.F.R. § 200.423 against the use of federal funds in
2 connection with alcohol-serving facilities.

3
4 To the extent Defendants implement Proposition 50, Assembly Bill 2037,
5 Assembly Constitutional Amendment 8, Senate Bill 280, Assembly Bill 604, or
6 related election frameworks using federal election funds in a manner that
7 subsidizes or supports polling locations in facilities where alcohol is sold or
8 dispensed, such implementation conflicts with binding federal funding conditions
9 and is preempted by federal law.

10
11 Federal funding conditions are mandatory and non-waivable. State authorization
12 of polling locations in alcohol-serving facilities does not confer federal
13 permission to use federal funds at those locations.

14 Plaintiff seeks declaratory and prospective injunctive relief to prevent ongoing
15 and future violations of the Supremacy Clause arising from the federally funded
16 implementation of the challenged election framework.
17

18 **CLAIM TWO**

19
20 **(Declaratory Relief — 28 U.S.C. § 2201)**

21 *(Against All Defendants in Their Official Capacities)*

22 An actual and justiciable controversy exists between Plaintiff and Defendants
23 regarding the legality of the prospective implementation of Proposition 50 and its
24 enabling legislation under federal election-funding law and constitutional
25 constraints.
26

1 Plaintiff seeks a declaration that the use of federal election funds, including
2 HAVA funds, in connection with polling locations in alcohol-serving facilities
3 violates 2 C.F.R. § 200.423 and is preempted under the Supremacy Clause.
4

5 Plaintiff further seeks a declaration clarifying the respective constitutional and
6 statutory limits governing the administration of future statewide elections and
7 redistricting measures implemented pursuant to Proposition 50.
8

9 Declaratory relief is appropriate to resolve uncertainty regarding the parties' legal
10 obligations and to guide future conduct before further elections are conducted
11 under the challenged framework.
12

CLAIM THREE

(Prospective Injunctive Relief — Ex parte Young)

(Against All Defendants in Their Official Capacities)

16 Defendants are responsible for the ongoing and prospective administration of
17 statewide elections and redistricting measures implemented pursuant to
18 Proposition 50 and related legislation.
19

20 Absent prospective injunctive relief, Defendants will continue to administer
21 elections using federally funded election infrastructure in a manner that conflicts
22 with binding federal funding conditions and constitutional limits.
23

24 Plaintiff seeks prospective injunctive relief prohibiting Defendants from using
25 federal election funds, directly or indirectly, to support polling locations in
26 facilities where alcohol is sold or dispensed, and requiring compliance with
27
28

1 applicable federal election-funding law in future statewide elections and
2 redistricting processes.

3
4 This relief is authorized under *Ex parte Young*, 209 U.S. 123 (1908), and is
5 necessary to prevent ongoing and future violations of federal law.

6 **CLAIM FOUR**

7
8 **(Ultra Vires Action / Constitutional Disability)**

9 *(Against Defendant Gavin Newsom in His Official Capacity)*

10 Plaintiff realleges and incorporates by reference all preceding paragraphs.

11
12 Under Article V, Section 10 of the California Constitution, and as construed by
13 the California Supreme Court in *In re Governorship*, 26 Cal.3d 110 (1979), a
14 Governor who is constitutionally disabled from exercising certain powers lacks
15 lawful authority to act with respect to those matters.

16
17 Plaintiff alleges that Governor Gavin Newsom was constitutionally disqualified
18 from participating in executive and legislative actions affecting alcohol-related
19 election infrastructure due to a disqualifying conflict of interest and the
20 reassignment of recall-related authority by operation of law.

21
22 To the extent the challenged election framework was approved or implemented
23 by an official acting without constitutional authority, such actions are ultra vires
24 and void as applied, and may not be enforced prospectively.

25
26 Plaintiff seeks declaratory and prospective injunctive relief to prevent continued
27 reliance on actions taken without lawful constitutional authority.

1 **STATEMENT OF UNDISPUTED FACTS**

2 *(For Pleading and Record Purposes)*

- 3 1. Plaintiff is a California voter and was a fee-paying prospective replacement
- 4 candidate in the 2021 California gubernatorial recall election.
- 5
- 6 2. California administers statewide elections using federal election funds,
- 7 including grants provided pursuant to the Help America Vote Act
- 8 (“HAVA”), 52 U.S.C. §§ 20901–21145, and related federal appropriations.
- 9
- 10 3. Federal election grants, including HAVA funds, are subject to the Uniform
- 11 Administrative Requirements, Cost Principles, and Audit Requirements for
- 12 Federal Awards, codified at 2 C.F.R. Part 200.
- 13
- 14 4. 2 C.F.R. § 200.423 provides, without qualification, that “costs of alcoholic
- 15 beverages are unallowable” for purposes of federal awards.
- 16
- 17 5. California Elections Code § 12288 historically prohibited polling places
- 18 from operating in facilities where alcoholic beverages are sold or
- 19 dispensed.
- 20
- 21 6. In 2022, Assembly Bill 2037 amended Elections Code § 12288 to
- 22 authorize polling locations in facilities that sell or serve alcohol, subject to
- 23 physical-separation conditions under state law.
- 24
- 25 7. California conducted a statewide special election on November 4, 2025,
- 26 adopting Proposition 50, which was implemented through enabling
- 27 legislation including Assembly Constitutional Amendment 8, Senate Bill
- 28 280, and Assembly Bill 604, and which governs future statewide elections
- and redistricting processes.

1 8. California has historically relied upon, and is reasonably expected to rely
2 upon, federal election funds in administering statewide primary, general,
3 and special elections, including elections conducted pursuant to
4 Proposition 50.

5 9. Federal law does not permit the use of federal election funds, directly or
6 indirectly, to subsidize polling locations in facilities where alcohol is sold
7 or dispensed, regardless of physical separation or timing of alcohol service.

9 10. Plaintiff seeks prospective declaratory and injunctive relief only, to ensure
10 that future statewide elections are administered in compliance with binding
11 federal law and constitutional constraints.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff respectfully requests that the Court:

14 **A. Declare** that the use of federal election funds, including funds provided
15 pursuant to the Help America Vote Act, in connection with polling locations
16 located in facilities where alcohol is sold or dispensed violates 2 C.F.R. §
17 200.423 and is preempted by federal law under the Supremacy Clause of the
18 United States Constitution;

21 **B. Declare** that state authorization of polling locations in alcohol-serving
22 facilities does not confer federal permission to use federal election funds at those
23 locations;

25 **C. Enjoin** prospectively Defendants, in their official capacities, from using
26 federal election funds, directly or indirectly, to support polling locations in

1 facilities where alcohol is sold or dispensed in future statewide elections;

2 **D.** Enjoin prospectively Defendants from administering statewide elections and
3 redistricting processes pursuant to Proposition 50 or related legislation in a
4 manner that conflicts with binding federal election-funding conditions;

5 **E. Declare** the respective rights and obligations of the parties under federal
6 election-funding law and the Supremacy Clause, pursuant to 28 U.S.C. § 2201;

7 **F.** Award costs as permitted by law; and

8 **G.** Grant such other and further relief as the Court deems just and proper.

9 **H. Declare** that, to the extent Assembly Bill 2037, Assembly Constitutional
10 Amendment 8, Senate Bill 280, Assembly Bill 604, and any related election-
11 enabling enactments were approved or implemented by an official acting without
12 constitutional authority or in violation of binding federal election-funding
13 conditions, such enactments are void and unenforceable *as applied* in the
14 prospective administration of statewide elections and redistricting processes.

16 **Dated:** January 20, 2025

17 Respectfully submitted,

18 

19 Carl Gordon
20 Plaintiff Pro Se
21 8306 Wilshire Blvd., No. 792
22 Beverly Hills, CA 90211
23 universityofthehood@gmail.com
24 (310) 926-3939

1 **PROOF OF SERVICE**

2 I, Mae Gordon, declare as follows:

3 1. I am employed in the City and County of Los Angeles, State of California.

4 I am over the age of eighteen (18) years and not a party to the within
5 action. My address is 1125 South Holt Avenue, Apt. 3, Los Angeles,
6 California 90035.

7 2. On January 20, 2026, I served the following document: FIRST

8 AMENDED COMPLAINT (Declaratory and Prospective Injunctive
9 Relief) (28 U.S.C. §§ 1331, 1343, 2201–2202) (Three-Judge Court
10 Required Under 28 U.S.C. § 2284)

11 3. Service was effected by electronic mail to the following recipients at the

12 email addresses listed below:

15 Attorney General of California

16 Todd Grabarsky

17 Supervising Deputy Attorney General

18 Todd.Grabarsky@doj.ca.gov

19 Samuel E. Sokolsky

20 Deputy Attorney General

21 State Bar No. 348173

22 455 Golden Gate Ave, Ste 11000, San Francisco,

23 CA 94102

24 Telephone: (415) 510-3584

25 Fax: (415) 703-5480

26 E-mail: Samuel.Sokolsky@doj.ca.gov

27 Attorneys for Defendant Gavin Newsom, in his

28 official capacity as Governor of California, and

Shirley N. Weber, in her official capacity as

California Secretary of State

1 I declare under penalty of perjury under the laws of the United States of America
2 that the foregoing is true and correct. Executed on January 20, 2026, at Los
3 Angeles, California.

4 

5 Mae Gordon

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