

1 John W. Howard (SBN 80200)
2 Michelle D. Volk (SBN 217151)
3 Peter C. Shelling (SBN 351159)
4 **JW HOWARD | ATTORNEYS, LTD.**
5 600 West Broadway, Ste. 1400
6 San Diego, California 92101
7 Telephone: (619) 234-2842
8 Email: johnh@jwhowardattorneys.com
9 michelle@jwhowardattorneys.com
10 pshelling@jwhowardattorneys.com

11 William R. Baber (SBN149614)
12 7918 El Cajon Blvd. #N162
13 La Mesa, CA 91942
14 Telephone: (619)316-0592
15 Email: wrblaw@flash.net

16 Attorneys for Plaintiff, Steve Hilton

17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA (SOUTHERN DIVISION)**

19 STEVE HILTON,

20 Plaintiff,

21 v.

22 SHIRLEY WEBER, in her official
23 capacity as California Secretary of
24 State,
25 GOV. GAVIN NEWSOM in his
26 official capacity,

27 Defendants

28 And the LEGISLATURE OF
CALIFORNIA,

Real Parties in Interest

Case No.:

**COMPLAINT FOR CIVIL RIGHTS
VIOLATION (42 U.S.C. § 1983),
DECLARATORY AND INJUNCTIVE
RELIEF**

**[ACTION SEEKING STATEWIDE OR
NATIONWIDE RELIEF]**

1 Plaintiff Stephen Hilton, for claim of relief, alleges as follows:

2 **PARTIES, JURISDICTION AND VENUE**

3
4 1. Steve Hilton is a resident and a registered voter in San Mateo County,
5 California. Mr. Hilton is also a candidate for Governor of California in 2026.

6 2. Defendant Shirley N. Weber is California's Secretary of State and the state's
7 Chief Elections Officer. Cal. Elec. Code § 10(a). As such, she is responsible for
8 placing initiatives on the statewide ballots and certifying the final electoral results.
9 Ms. Weber is sued in her official capacity only.

10
11 3. Defendant Gavin Newsom ("Newsom") is California's governor. At his
12 suggestion, the Legislature adopted ACA8 to put a ballot measure, now known as
13 "Proposition 50", before the voters. He signed the ACA8 legislation. The supreme
14 executive power of this State is vested in the governor. The governor has the
15 obligation to ensure that the law is faithfully executed. Cal. Constitution Article V § 1.
16 Mr. Newsom has created a ballot measure committee to promote the Yes on 50
17 campaign. Newsom will be responsible for the implementation of Proposition 50.
18 Newsom is sued in his official capacity only.

19
20 4. Real Party in Interest is the Legislature of the State of California which passed
21 ACA 8 pursuant to Cal Constitution Article XVIII Sec.1.

22
23 5. This Court has original jurisdiction over the subject matter of this action
24 pursuant to 28 U.S.C. §§ 1331, 1343, and 2201 and 42 U.S.C. § 1983 and § 1988 and
25
26
27
28

1 also because the matters in controversy arise under the Constitution and laws of the
2 United States.

3
4 6. Venue is proper in this district because a substantial part of the events and
5 omissions giving rise to the claims herein occurred in this district. 28 U.S.C. §
6 1391(b).

7 **FACTUAL ALLEGATIONS**

8
9 7. Defendant Governor Gavin Newsom proposed, and the California State
10 Legislature approved, several legislative acts. The California State Assembly
11 approved legislation, enumerated “Assembly Bill No. 604”, setting new district
12 boundaries for Congressional seats in the State of California. This, despite the fact
13 that the California Constitution, first, currently gives exclusive authority to do so to
14 the California Citizens Redistricting Committee, and, second, specifically requires
15 redistricting to occur only in the year following the United States Census, thus
16 prohibiting the State from conducting a redistricting in any other year. 2025 is five (5)
17 years after the National Census and over four (4) years after the last redistricting was
18 conducted by the Citizens Commission. Since 2025, the population has significantly
19 changed; something the State has neither tracked, nor accounted for in attempting to
20 draw new Congressional district boundaries.

21
22 8. The Legislature also passed, by two-thirds votes in each house, ACA8, which
23 purports to be an amendment to the California Constitution, supplanting the exclusive
24 constitutional authority of the Citizens Commission to set district boundaries, and
25
26
27
28

1 implementing the provisions of Assembly Bill No. 604 (“AB 604”), setting the new
 2 districts in accordance with the provisions thereof. Significantly, ACA8 does not
 3 specifically repeal that section of Article XXI that limits redistricting to occur only in
 4 the year following the national census.
 5

6 9. In incorporating AB 604, ACA8 purports to set district boundaries in a year
 7 other than the year following the national census without conducting an update of
 8 census counts and population changes, thus creating districts that do not comply with
 9 the “one-man – one-vote” regimen required under the United States Constitution. The
 10 redistricting map of AB 604 also takes no account of the breakup of communities of
 11 color and ethnicity, thus diluting the voting power of those affinity groups.
 12

13 10. ACA8 also violates fundamental fairness and, by its terms, is an exercise in
 14 partisan Gerrymandering.
 15

16 **COUNT I**

17 **Violation of Equal Protection Rights (42 U.S.C. § 1983)**

18 **Based on Unequal Congressional Districts**

19 (Against All Defendants)

20 11. Plaintiff resides in a congressional district in California that will be re-mapped
 21 as part of this ACA8 redistricting. Because the legislature did not use, or did not
 22 have, current census data, it has not ensured that districts are largely equal in
 23 population. guaranteeing that Plaintiff’s congressional district will not be equal to that
 24 of other Congressional districts in the state. A clear example of this is that, in shaping
 25
 26
 27
 28

1 the districts, the legislature took no account of the fact that huge communities have
2 experienced massive reductions in population as, for example, Pacific Palisades,
3 Malibu and Altadena, in the Los Angeles area, as a result of devastating fires that
4 displaced tens of thousands of residents, and ACA8 will therefore contract the value
5 of some votes and expand the power of other voters.
6

7
8 12. The districts drawn under ACA8 constitute an arbitrary and capricious state
9 action offensive to the Fourteenth Amendment's equal protection requirement that
10 undergirds the "one-person one vote" rule. The Equal Protection Clause requires
11 substantially equal legislative representation for all citizens in a State regardless of
12 where they reside. See *Baker v. Carr* 369 U.S. 186 at 207; *Wesberry v. Sanders* 376
13 U.S. 1,18 (1963); *Reynolds v. Sims* 37 U.S. 533, 561-568 (1964). These cases do not
14 stand in isolation and their central holdings were enthusiastically endorsed by the
15 California Supreme Court in the case of *Calderon v. City of Los Angeles*, (1971) 4
16 Cal.3d 251, in which that court held that: "...we emphasize that we do so here not only
17 from constitutional compulsion but also as a matter of conviction. Adherence to a
18 population standard, rather than one based on registered voters, is more likely to
19 guarantee that those who cannot or do not cast a ballot may still have some voice in
20 government."
21

22
23
24
25 13. In the next fourteen months, Plaintiff will campaign for California governor
26 throughout the state and his statewide campaign will touch every Congressional
27 district.
28

14. The hyper-partisan gerrymandering project undertaken by the governor and legislature, as alleged herein, is an example of government officials acting "under color of state law" to deprive Plaintiff of rights, privileges, or immunities secured by the U.S. Constitution. In accordance with the Supreme Court's ruling in *Rucho v. Common Cause*, 588 U.S. 684 (2019), courts are empowered to resolve claims of inequality in Congressional districts. (*Id.*, at 226) ("The claim of population inequality among districts in *Baker v. Carr*, for example, could be decided under basic equal protection principles. 369 U. S., at 226")

15. Plaintiff therefore seeks a writ of prohibition and injunction forbidding the placing of ACA8 on the ballot for California's special election called specifically to formalize the neutering of the Citizens Commission, diluting votes in particular districts and abridging the equal protection rights of Plaintiff and all California residents. Plaintiff also seeks an injunction forbidding the State to implement redistricting in accordance with AB 604, lacking, as it does, any foundational current population count.

COUNT 2

Violation of Equal Protection Rights (42 U.S.C. § 1983)

Based on the Governor and Legislature ignoring *Legislature v. Deukmejian*

(Against All Defendants)

16. The State of California has a long history – more than a century – of *not* seeking to redistrict in the middle of a decade. This policy was articulated and

1 confirmed by the California Supreme Court in *Legislature v. Deukmejian* 34 Cal.3d
2 658 (1983).

3
4 17. The *Deukmejian* Court reviewed the California Constitution (Article XXI, § 1)
5 which provides that congressional redistricting shall occur solely “in the year
6 following the year in which the national census is taken under the direction of
7 Congress at the beginning of each decade”.

8
9 18. The Court rejected an attempt – which was novel in California’s history at the
10 time – to readjust the congressional district boundaries mid-decade through the
11 initiative process. (*Deukmejian*, at 663). The Court held that Article XXI limits
12 redistricting to once a decade and cannot be changed by legislative action or through
13 the initiative process. (*Id.* at 674). The Court cited precedent back to 1907 that
14 prohibited mid-decade redistricting. (*Id.* at 369).

15
16
17 19. The Court also cited a 1951 California Attorney General Opinion which said
18 “after a districting statute has become effective, the lawmaking power of the state may
19 not make a second revision.” (18 *Ops. Cal. Atty General*. 11,16 – 1951).

20
21 20. The *Deukmejian* Court did acknowledge that mid-decade redistricting was
22 permissible if the first redistricting plan was invalidated by judicial decision or
23 nullified by referendum. It did not include “partisan gerrymandering” as an acceptable
24 reason to re-district in mid-decade.

25
26 21. The decision of the Governor and legislature to ignore the California Supreme
27 Court’s decision in *Deukmejian* is an example of government officials acting "under
28

1 color of state law" to deprive Plaintiff of rights, privileges, or immunities secured by
2 the U.S. Constitution.

3
4 22. Plaintiff therefore seeks a writ of prohibition forbidding the placing of ACA8
5 on the ballot for California's special election called specifically to formalize the
6 neutering of the Citizens Commission, diluting votes in particular districts and
7 abridging the equal protection rights of Plaintiff and all California residents, and an
8 injunction, enjoining and restraining the state from implementing the redistricting map
9 included in AB 604, and incorporated into ACA8 and Proposition 50.
10

11
12 **PRAYER FOR RELIEF**

13 **WHEREFORE**, Plaintiff prays for entry of judgment granting:

14 (a.) A declaratory judgment that ACA8 and Proposition 50 violate the Fourteenth
15 Amendment and that Defendant, acting under color of State law, has deprived Plaintiff
16 of federal rights secured by the Constitution of the United States and by Acts of
17 Congress;
18

19 (b.) A writ of prohibition, forbidding the placement of Proposition 50 on the ballot
20 for the special election called for that purpose in November of this year;
21

22 (c.) A permanent injunction prohibiting Defendant and all persons acting under her
23 direction, from using the congressional district maps proposed by ACA 8 to conduct
24 California congressional elections;
25

26 (d.) A permanent injunction prohibiting Defendants, and all persons acting under
27 their direction, from placing Proposition 50 on the November 2025 California
28

1 statewide ballot.

2 (e.) Any temporary, preliminary, or permanent relief requested during the
3
4 pendency of this suit to which Plaintiff is entitled, and that the Court deems just and
5 proper; and

6 (f.) Plaintiff's reasonable costs and expenses, including attorney's fees.
7

8 Dated: September 4, 2025

JW HOWARD | ATTORNEYS, LTD.

9
10
11 By: /s/ John W. Howard

12 John W. Howard
13 William R. Baber
14 Michelle D. Volk
15 Peter C. Shelling
16 Attorneys for Plaintiff
17
18
19
20
21
22
23
24
25
26
27
28

JW HOWARD/ ATTORNEYS, LTD.
600 WEST BROADWAY, SUITE 1400
SAN DIEGO, CALIFORNIA 92101