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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VINZENZ J. KOLLER, an individual and Presidential
Elector,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as
Attorney General for the State of California;
KAMALA HARRIS, in her individual capacity;
ALEX PADILLA, in his individual capacity and
in his official capacity as Secretary of State for
the State of California; and DOES 1-10;

Defendants.

Case No. 5:16-cv-07069-EJD

**AMENDED COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

REQUEST FOR JURY TRIAL

PRELIMINARY STATEMENT

Plaintiff Vinzenz J. Koller, a Presidential Elector for the State of California, hereby challenges the constitutionality of *California Election Code* §§ 6906 and 18002, statutes which restrict, under penalty of felony prosecution, the rights and obligations of presidential electors under Article II of the U.S. Constitution, as amended by the Twelfth Amendment, and the rights to place his vote for President and Vice President free from intimidation, threats, and coercion under 18 U.S.C. § 594 and *California Election Code* § 18540(a).

1 No Presidential Elector should be coerced into their voting choice with threats of
2 jail, fines, and the loss of civil rights ancillary to felony convictions, including the loss of
3 voting rights, loss of right to possess a firearm, loss of right to serve on a jury, loss of right
4 to serve in the military, have restricted rights to travel, have to submit a DNA sample to law
5 enforcement, and have a permanent stain on employment prospects and possibly loss
6 professional licenses.

7 Plaintiff seeks retroactive relief relating to the completed unconstitutional actions
8 against him, and prospective relief to act as a Presidential Elector not merely by placing a
9 ceremonial vote, but as part of a deliberative body, placing a vote that is most likely to
10 ensure that only a person with the adequate qualifications for office be voted in as President
11 of the United States.

12 Currently 29 states, including California, have state laws that force presidential
13 electors to place a ceremonial vote in accord with their party affiliation or pre-election
14 pledge, regardless of the circumstances and irrespective of any damage such actions may
15 cause the United States.

16 Plaintiff here, is joining the path of other electors in the States of Colorado and
17 Washington seeking relief from state statutes that interfere with their right to act as a
18 deliberative body and, if appropriate under the circumstances, place their votes in the best
19 interest of the country, even if they might not be their party's candidate.

20
21 Plaintiff, through undersigned counsel, for his complaint against the above-named
22 Defendants avers as follows.

23
24 **PARTIES**

25 1. Vinzenz J. Koller is a resident of Monterey County, California, and a duly
26 chosen Presidential Elector for the 2016 presidential election.

27 2. Defendant Kamala Harris was the Attorney General of California and, in such
28 capacity, enforced the laws of the State of California, including *Election Code* §§ 6906 and

1 18002 in December 2016. She has been replaced in her official capacity in this Amended
2 Complaint by Xavier Becerra, but remains a Defendant being sued in her individual
3 capacity.

4 3. Defendant Xavier Becerra is the Attorney General of California and, in such
5 capacity, enforces the laws of the State of California, including *Election Code* §§ 6906 and
6 18002.

7 4. Defendant Alex Padilla is the Secretary of State of California and, as such,
8 gives notice of the time and place for the Presidential Electors to vote, and certifies the
9 results of the Presidential Electors' balloting and votes. He is being sued in his individual
10 capacity also.

11 5. Defendants DOES 1-10 are other individuals or entities, presently
12 unidentified, that upon information and belief are also engaged, directly or indirectly, in the
13 conduct giving rise to this Complaint. On information and belief, Defendants act as agents
14 of one or more of each other relative to the subject matter of this Complaint.

15
16 **JURISDICTION AND VENUE**

17 6. This Court has jurisdiction over the subject matter of this dispute as it relates
18 to a federal question, to wit, a challenge to the constitutionality of a state statute, under 28
19 U.S.C. § 1331 as well as 28 U.S.C. §§ 2201 and 2202.

20 7. The federal question presented by this case is the constitutionality of
21 *California Election Code* §§ 6906 and 18002, which requires electors to vote “for that
22 person for President and that person for Vice President of the United States, who are,
23 respectively, the candidates of the political party which they represent . . .” and calls for
24 punishment for “willfully neglect[ing] or refus[ing] to perform it” or “knowingly and
25 fraudulently act[ing] in contravention” to be punished by felony fine or imprisonment.

26 8. These statutes, *Election Code* §§ 6906 and 18002, violate Article II of the
27 U.S. Constitution as amended by the Twelfth Amendment.

1 17. The Constitution also sets forth the duties of the President of the Senate when
2 those lists are received.

3 18. Never has the Constitution reduced the weighty responsibility of choosing the
4 President of the United States to a media circus on the second Tuesday of November every
5 four years.

6 19. Never has the Constitution allowed for foreign influences, threats, or
7 intimidation to restrain or dictate the votes placed by Presidential Electors.

8 20. Both federal and state statutes enacted over the years since the Constitution
9 was ratified have reaffirmed the importance of the independence of voters at every level of
10 elected office, from dog catcher on up to the president. These statutes include *California*
11 *Election Code* § 18540(a) and 18 U.S.C. § 594.

12 21. *California Election Code* § 18540(a) penalizes persons who use or threaten to
13 use “force, violence, or tactic of coercion or intimidation” to induce or compel votes “at
14 any election” as a felony punishable by imprisonment.

15 22. *California Election Code* § 18540(b) also penalizes persons who arrange for
16 another person to use or threaten to use “force, violence, or tactic of coercion or
17 intimidation” to induce or compel votes “at any election” as a felony punishable by
18 imprisonment.

19 23. 18 U.S.C. § 594 likewise, and more specifically, penalizes anyone who
20 “intimidates, threatens, coerces” or attempts the same “for the purpose of interfering with
21 the right of such other person to vote or to vote as he may choose, or of causing such other
22 person to vote for, or not vote for, any candidate for the office of President, Vice President,
23 Presidential elector . . . at any election held solely or in part for the purpose of electing such
24 candidate”

25 24. Notwithstanding the Constitutional structure for functioning of Presidential
26 Electors (the “Electoral College”) and longstanding state and federal criminalization of any
27 actions to intimidate, threaten, or coerce votes, some individual states have passed laws that
28 do just that – intimidate, threaten, and coerce the votes placed by Presidential Electors for

1 President and Vice President. Two such statutes are those challenged in this case - *Election*
2 *Code* §§ 6906 and 18002.

3 25. As of the date of filing this case, Plaintiff was a duly authorized Presidential
4 Elector of the Democratic Party and met all qualifications to be an elector.

5 26. Plaintiff had previously served as a Presidential Elector (before 2016) and
6 continues to meet all qualifications to be selected against as a Presidential Elector in
7 subsequent elections, thus being reasonably likely to face the situation addressed herein in a
8 subsequent presidential election.

9 27. *California Election Code* §§ 6906 and 18002 requires electors to vote “for
10 that person for President and that person for Vice President of the United States, who are,
11 respectively, the candidates of the political party which they represent . . .” and calls for
12 punishment for “willfully neglect[ing] or refus[ing] to perform it” or “knowingly and
13 fraudulently act[ing] in contravention” to be punished by fine or imprisonment.

14 28. The Democratic Presidential and Vice-Presidential candidates for the 2016
15 presidential election were Hillary Rodham Clinton and Timothy Kaine, respectively.

16 29. The Republican Presidential and Vice-Presidential candidates for the 2016
17 presidential election were Donald J. Trump and Michael Pence, respectively.

18 30. Donald J. Trump has already commenced his campaign for President for the
19 2020 election, having filed the necessary papers on January 20, 2017, and thus considers
20 himself to be seeking electoral college votes again in less than four years.

21 31. Though the Democratic nominees for President and Vice-President won the
22 nationwide popular vote by over 3 million votes, and won the California popular vote by a
23 large margin, the various state-by-state popular votes indicated that Donald Trump and
24 Michael Pence (the Republican presidential and vice presidential nominees) would win the
25 majority of electoral college votes on December 19, 2016 if the electors in each state vote
26 consistent with the popular vote in their respective states.

27 32. During the time period between election day (November 8, 2016) and the
28 date for the electoral college voting to occur (December 19, 2016), U.S. intelligence

1 agencies confirmed that they possessed evidence showing foreign interference in the
2 presidential election with the purpose of favoring Donald J. Trump and undermining
3 Hillary R. Clinton in that election.

4 33. Plaintiff and many other Presidential Electors considered this information of
5 foreign influence in the election to be a matter of grave importance and took affirmative
6 steps to obtain more information from the current President Obama, intelligence agencies,
7 or Congress.

8 34. Presidential Electors in the states of Arizona, Arkansas, Georgia, Idaho,
9 Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Missouri, New
10 Hampshire, New Jersey, New York, North Dakota, Pennsylvania, Rhode Island, South
11 Dakota, Texas, and West Virginia (“Unbound Presidential Electors”) were not required to
12 simply place a ceremonial vote consistent with their state’s popular vote, and were free to
13 consider the possibility of foreign influence on behalf of one of the presidential candidates
14 or any other circumstance as part of their decision making process before placing their
15 electoral votes.

16 35. Presidential Electors in the remaining states, including California, Colorado,
17 and Washington (“Bound Presidential Electors”), were coerced into being rubberstamps,
18 not being free to consider the possibility of foreign influence on behalf of one of the
19 presidential candidates or any other circumstance as part of their decision making process
20 before placing their electoral votes. California and 28 other states have laws in place
21 requiring their Presidential Electors to vote consistent with the persons and/or party
22 corresponding to the popular vote in the state and setting forth some type of adverse action
23 to be taken if they do not.

24 36. On December 19, 2017, Presidential Electors placed their votes in a sufficient
25 number to confirm Donald J. Trump as President.

26 37. By early January 2017, at least three U.S. intelligence agencies reported a
27 high confidence that Russian President Vladimir Putin ordered actions aimed at
28

1 undermining public faith in the United States’ democratic process and denigrating one
2 candidate (Clinton) and giving preference to the other (Trump).

3 38. On January 20, 2017, Mr. Trump was inaugurated as President and
4 simultaneously began his 2020 presidential campaign.

5 39. By mid-February 2017, additional reports surfaced indicating that Mr.
6 Trump’s campaign may have had numerous contacts with Russian intelligence officers
7 during the campaign, raising further questions about the connection between Mr. Trump
8 and the Russian government.

9 40. *California Election Code* § 6906 requires electors to vote “for that person for
10 President and that person for Vice President of the United States, who are, respectively, the
11 candidates of the political party which they represent . . .”

12 41. *California Election Code* § 18002 sets for a punishment for “willfully
13 neglect[ing] or refus[ing] to perform” duties under state elections laws or “knowingly and
14 fraudulently act[ing] in contravention” to be punished by fine or imprisonment.

15 42. These statutes contain no exceptions whatsoever, not if the candidate for the
16 political party which they represent died, became physically or mentally unable to assume
17 office, or abducted by aliens. In fact, even if the candidate of their political party was
18 discovered to be a foreign agent, compromised and subject to blackmail by a foreign
19 government, or any manner of other disqualifying situations, these statutes would still
20 require Presidential Electors to vote for their political party candidate.

21 43. Likewise, these statutes contain no exceptions that would allow Presidential
22 Electors to vote on a compromise candidate from another party that would ensure that
23 someone unqualified would not be President or Vice-President.

24 44. These statutes prioritize political party loyalty over the best interests of the
25 United States.

26 45. *California Election Code* §§ 6906 and 18002 state requirement pre-
27 determining the vote to be cast by Presidential Electors violates the plain language of
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1 Article II, Section 1, of the U.S. Constitution, as amended by the Twelfth Amendment,
2 which indicates that there should not be a way to know in advance what the vote will be –

3 The executive power shall be vested in a President of the United States of
4 America. He shall hold his office during the term of four years, and, together
5 with the Vice President, chosen for the same term, be elected, as follows:

6 Each state shall appoint, in such manner as the Legislature thereof may direct,
7 a number of electors, equal to the whole number of Senators and
8 Representatives to which the State may be entitled in the Congress: but no
9 Senator or Representative, or person holding an office of trust or profit under
10 the United States, shall be appointed an elector.

11 The electors shall meet in their respective states, and vote by ballot for two
12 persons, of whom one at least shall not be an inhabitant of the same state with
13 themselves. And they shall make a list of all the persons voted for, and of the
14 number of votes for each; which list they shall sign and certify, and transmit
15 sealed to the seat of the government of the United States, directed to the
16 President of the Senate. The President of the Senate shall, in the presence of
17 the Senate and House of Representatives, open all the certificates, and the
18 votes shall then be counted. The person having the greatest number of votes
19 shall be the President, if such number be a majority of the whole number of
20 electors appointed; and if there be more than one who have such majority,
21 and have an equal number of votes, then the House of Representatives shall
22 immediately choose by ballot one of them for President; and if no person
23 have a majority, then from the five highest on the list the said House shall in
24 like manner choose the President. But in choosing the President, the votes
25 shall be taken by States, the representation from each state having one vote; A
26 quorum for this purpose shall consist of a member or members from two
27 thirds of the states, and a majority of all the states shall be necessary to a
28 choice. In every case, after the choice of the President, the person having the
greatest number of votes of the electors shall be the Vice President. But if
there should remain two or more who have equal votes, the Senate shall
choose from them by ballot the Vice President.

23 The Congress may determine the time of choosing the electors, and the day
24 on which they shall give their votes; which day shall be the same throughout
25 the United States. ...

26 46. Furthermore, this state requirement pre-determining the vote to be cast by
27 Presidential Electors violates the Founders' intent that the Presidential Electors be a
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1 deliberative and independent body free to cast votes for whomever they deem to be the
2 most fit and qualified candidates.

3 See The Federalist, No. 68 (Earle ed., 1937), pp. 441-442:
4 "It was desirable that the sense of the people should operate in the choice of
5 the person to whom so important a trust was to be confided. This end will be
6 answered by committing the right of making it, not to any preestablished
7 body, but to men chosen by the people for the special purpose, and at the
8 particular conjuncture.

9 "It was equally desirable, that the immediate [presidential election] should be
10 made by men most capable of analyzing the qualities adapted to the station,
11 and acting under circumstances favorable to deliberation, and to a judicious
12 combination of all the reasons and inducements which were proper to govern
13 their choice. A small number of persons, selected by their fellow-citizens
14 from the general mass, will be most likely to possess the information and
15 discernment requisite to such complicated investigations."

16 Quoted in *Ray v. Blair*, 343 U.S. 214.

17 47. Ironically, the Constitution and the Founders' intent should be protected
18 under *California Election Code* § 18540(a) which makes it a felony offense for "every
19 person who makes use of or threatens to make use of any ... tactic of coercion or
20 intimidation, to induce or compel any other person to vote ... or to vote or refrain from
21 voting for any particular person ... at any election, or because any person voted or refrained
22 from voting at any election or refrained from voting for any particular person ..."

23 48. The Constitution and the Founders' intent should also be protected under 18
24 U.S.C. § 594 which makes it a criminal offense to intimidate, threaten, or coerce votes,
25 including specifically votes for President and Vice President.

26 49. Coercion via statute is no different in result than independent coercion as it
27 interferes with the freedom of speech (to voice questions and concerns about the fitness and
28 qualification for office of any potential candidate for President and Vice President) and the
obligation and right to act as part of the Presidential Electors to "analyz[e] the qualities
adapted to the station," "act[] under circumstances favorable to deliberation, and to a
judicious combination of all the reasons and inducements which were proper to govern

1 their choice” and to “possess the information and discernment requisite to such complicated
2 investigations.”

3 50. Though Hillary Clinton and Timothy Kaine won the majority vote in
4 California and are qualified for office, Plaintiff and fellow Bound Presidential Electors
5 should not have been constitutionally compelled to vote for them if the best interests of the
6 country warranted a different course of action. Plaintiff should have been allowed to
7 exercise his judgment and free will to vote for whomever he believes to be the most
8 qualified and fit for the offices of President and Vice President within the circumstances
9 and with the knowledge known on December 19, 2016, whether those candidates are
10 Democrats, Republicans, or from a third party.

11 51. Plaintiff was forced, coerced, and intimidated by Defendants into his decision
12 of how to vote for the offices of President and Vice-President.

13 52. Defendants Kamala Harris and Alex Padilla, under color of state law, failed
14 and refused to disclaim the possibility that Plaintiff would be criminally prosecuted under
15 *California Election Code* §§ 6906 and 18002 if he failed to vote along party lines.

16 53. Similarly, Defendants Kamala Harris and Alex Padilla, under color of state
17 law, violated *California Election Code* § 18540 and 18 U.S.C. § 594 by intimidating,
18 threatening, and coercing Plaintiff into his decision of how to vote for the offices of
19 President and Vice-President.

20 54. Furthermore, Defendant Xavier Becerra, as California’s new Attorney
21 General and with knowledge of the unconstitutionality of *California Election Code* §§ 6906
22 and 18002, has failed to disclaim any intent to criminally prosecute Presidential Electors in
23 the future, thus prospectively chilling their Constitutional rights and duties.

24
25 **FIRST CAUSE OF ACTION**

26 (Declaratory Relief, against all Defendants)

27 55. Plaintiffs re-allege and incorporate by reference paragraphs 1-54, above.

28 56. *Election Code* §§ 6906 and 18002 call for criminal penalties against Plaintiff

1 if Plaintiff does not place his presidential electoral vote for Hillary Clinton and Tim Kaine.

2 57. Plaintiff's stated intention to not necessarily place his vote for Hillary Clinton
3 and Tim Kaine, but instead to act with the deliberative intent and care for choosing of
4 qualified persons for the office of President and Vice President called for in the U.S.
5 Constitution, created a risk of criminal prosecution by the State of California and thus
6 creates an actual controversy within the meaning 28 U.S.C. § 2201(a).

7 58. Because Plaintiff has previously served as a Presidential Elector and
8 continues to be eligible to serve as a Presidential Elector in 2020 and future presidential
9 elections, and because the presidential contender who raised particular concerns in the 2016
10 election already plans to run again in 2020, an actual controversy continues to exist.

11 59. The threat of criminal prosecution against Plaintiff if he acts in any manner in
12 his capacity as Presidential Elector other than as a rubber stamp or ceremonial vote
13 consistent with the popular vote in California, constitutes a violation of his obligations
14 under the U.S. Constitution, Art. II, Sec. 1, as amended by the Twelfth Amendment, and his
15 rights to freedom of speech under the First Amendment of the U.S. Constitution.

16 60. The threat of criminal prosecution chilled Plaintiff's exercise of his
17 Constitutional rights and duties, constituting harm.

18 61. Plaintiff therefore requests a declaratory judgment by this Court that
19 *California Elections Code* § 6906 and the corresponding penalty for violation thereof in
20 *California Elections Code* § 18002 are unconstitutional and therefore unenforceable against
21 Plaintiff or any other presidential electors.

22 62. The purpose of the Electoral College, which is made up of electors such as
23 Plaintiff, is to elect the President and Vice President of the United States. There is nothing
24 in the Constitution that permits or requires electors to be bound to vote the same as the
25 popular vote in their states. For the first 100 years of our history, the majority of states did
26 not hold popular votes for the election of president and vice president and, instead, the
27 states themselves appointed the electors who voted for president and vice president.

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1 63. Alexander Hamilton explicitly stated “that that the immediate election should
2 be made by men most capable of analyzing the qualities adapted to the station.” Federalist
3 No. 68. The electors (the “men”) would be “most likely to possess the information and
4 discernment requisite to such complicated investigations.” *Id.* The electors were created so
5 that they, as a deliberative body, would be “detached” and less prone to be influenced by
6 the “heats and ferments” of a raucous election. *Id.* The electors would help ensure “the
7 office of President [would] never fall to the lot of any man who is not in an eminent degree
8 endowed with the requisite qualifications.” *Id.* The electors create an “obstacle” to “cabal,
9 intrigue, and corruption” and prevent “foreign powers [from] gain[ing] an improper
10 ascendant in our councils.” *Id.*

11 64. The United States Supreme Court has already partially addressed the question
12 of a state statute that required an elector for a primary election to sign a pledge as to whom
13 they would vote and found the pledge itself constitutional (*Ray v. Blair*, 343 U.S. 214
14 (1952)), the Supreme Court left open the question of whether enforcement of such pledges,
15 or penalties for violating the pledges, or state statutes dictating what votes would be placed,
16 was constitutional. This question is now ripe for review.

17 65. Similarly, while Article II, Section 1 provides that states shall “appoint”
18 electors, but the Constitution does not provide that the states shall have the ability to
19 determine for whom those electors will vote.

20 66. The Electoral College would be rendered superfluous and antithetical to the
21 purpose of the Electoral College as articulated by Alexander Hamilton, for if the electors
22 are merely to vote for the candidate who won the popular vote in their state, then there is no
23 need for the Electoral College at all. While many scholars have advocated for the
24 elimination of the Electoral College, this case does not seek to invalidate the Electoral
25 College; that would be a matter to be changed by constitutional amendment ratified by a
26 sufficient number of states.

27 67. Declaratory and injunctive relief is necessary to prevent the Defendants from
28 violating Plaintiff’s constitutional rights or chilling his exercise of those rights due to the

1 risk of punitive consequence for voting in the broader interest of the country, even if that
2 might not end up aligning with his loyal party affiliation. Without such relief, Plaintiff's
3 rights and obligations as a Presidential Elector, and his rights to be free from intimidation,
4 threats, and coercion in his voting as protected under state and federal law, will be
5 irreparably harmed.

6 68. This Court can provide declaratory relief because an actual and substantial
7 controversy now exists between Plaintiffs and the Defendants with respect to Plaintiff's
8 rights and Defendants' rights and duties under *Elections Code* §§ 6906 and 18002, and such
9 controversy is capable of repetition, yet evading review.

10 69. Plaintiff's constitutional rights have been directly, substantially, and
11 irreparably violated, affected, and injured unless and until this Court declares the state law
12 requiring electors to vote consistent with the popular vote in their state, and penalizing an
13 elector for not doing so, is unconstitutional.

14 **SECOND CAUSE OF ACTION**

15 (Deprivation of Civil Rights, 28 U.S.C. § 1983)

16 (against Defendants Kamala Harris and Alex Padilla, in their individual capacities)

17 70. Plaintiff realleges and incorporates by reference allegations contained in
18 paragraphs 1-69 as though fully set forth herein.

19 71. At all times relevant to this Amended Complaint, Harris and Padilla were
20 acting under color of state law and through their acts engaged in unlawful intimidation,
21 threatens, and coercion relating to Plaintiff's voting decision for President and Vice
22 President.

23 72. Defendants Harris and Padilla deprived Plaintiff of his rights under Article II,
24 Section 1, of the U.S. Constitution, as amended by the Twelfth Amendment, by failing and
25 refusing to disclaim any intent to criminally prosecute Plaintiff under *California Election*
26 *Code* §§ 6906 and 18002 if he voted for anyone for President and Vice-President other than
27 Clinton and Kaine.
28

1 73. Defendants Harris and Padilla deprived Plaintiff of his rights under Article II,
2 Section 1, of the U.S. Constitution, as amended by the Twelfth Amendment, by failing and
3 refusing to disclaim any intent to criminally prosecute Plaintiff under *California Election*
4 *Code* §§ 6906 and 18002 if he voted for anyone for President and Vice-President other than
5 Clinton and Kaine.

6 74. Defendants Harris and Padilla deprived Plaintiff of his rights under 18 U.S.C.
7 § 594, by failing and refusing to disclaim any intent to criminally prosecute Plaintiff under
8 *California Election Code* §§ 6906 and 18002 if he voted for anyone for President and Vice-
9 President other than Clinton and Kaine.

10 75. Defendants Harris and Padilla deprived Plaintiff of his rights under *California*
11 *Election Code* § 18540, by failing and refusing to disclaim any intent to criminally
12 prosecute Plaintiff under *California Election Code* §§ 6906 and 18002 if he voted for
13 anyone for President and Vice-President other than Clinton and Kaine.

14 76. *California Election Code* §§ 6906 and 18002 do not serve any significant
15 governmental interest. To the contrary, they actually significantly jeopardize the
16 governmental interests of both the State of California and the United States of America.

17 77. *California Election Code* §§ 6906 and 18002 is neither narrowly tailored or
18 the least restrictive means to accomplish any governmental purpose sought to be served by
19 the legislation.

20 78. Plaintiff's rights to be free from intimidation, treats, and coercion in the
21 process of voting is a clearly established right.

22 79. Plaintiff was harmed as a result of this conduct, including through the
23 deprivation of constitutional rights, and otherwise as according to proof at trial.

24 80. Defendants' conduct was a substantial factor in causing harm to Plaintiff.

25 81. Plaintiff additionally seeks compensation for reasonable attorney's fees and
26 costs under 42 U.S.C. § 1988.

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THIRD CAUSE OF ACTION

(Deprivation of Civil Rights, 28 U.S.C. § 1983)

(against Defendants Xavier Becerra and Alex Padilla, in their official capacities)

82. Plaintiff realleges and incorporates by reference allegations contained in paragraphs 1-81 as though fully set forth herein.

83. *California Election Code* §§ 6906 and 18002 are unconstitutional on their face and as threatened to be applied, infringing Plaintiff’s duties and rights as a presidential elector under Article II, Section 1, of the U.S. Constitution, as amended by the Twelfth Amendment.

84. *California Election Code* §§ 6906 and 18002 are unlawful and in violation of 18 U.S.C. § 594 on their face and as threatened to be applied.

85. *California Election Code* §§ 6906 and 18002 are unlawful and in violation of *California Election Code* § 18540 on their face and as threatened to be applied.

86. *California Election Code* §§ 6906 and 18002 do not serve any significant governmental interest.

87. *California Election Code* §§ 6906 and 18002 is neither narrowly tailored or the least restrictive means to accomplish any governmental purpose sought to be served by the legislation.

88. Plaintiff seeks injunctive relief to prohibit Defendants from intimidating, threatening, and/or coercing Plaintiff or other presidential electors in how they vote for President and Vice President.

89. Plaintiff additionally seeks compensation for reasonable attorney’s fees and costs under 42 U.S.C. § 1988.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

A. Entry of judgment in favor of Plaintiff and against Defendants on all causes of action;

PROOF OF SERVICE

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I, Melody A. Kramer, declare: I am and was at the time of this service working within in the County of San Diego, California. I am over the age of 18 year and not a party to the within action. My business address is the Kramer Law Office, Inc., 4010 Sorrento Valley Blvd., Suite 400, San Diego, California, 92121.

On Friday, February 17, 2017 I served the following documents:

**AMENDED COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Pursuant to Local Rules, I electronically filed this document via the CM/ECF system for the United States District Court for the Northern District of California.

I declare that the foregoing is true and correct, and that this declaration was executed on Friday, February 17, 2017, in San Diego, California.

/s/ Melody A. Kramer

Melody A. Kramer