



## What is the case about?

• **Free, fair and transparent elections are the basis for our democratic republic.** Without them, citizens lose faith in the process and in the government itself, and stop voting. The government then no longer reflects the will of the people.

- **Decades of laws, regulations and election practices have undermined California election integrity.** Each successive layer of law and regulations further undermine integrity, creating an environment ripe for irregularities and potential fraud.
- **This is a challenge to the election process for future elections, not just the past election.** Plaintiffs seek an audit and to challenge unconstitutional state laws and regulations governing the election process, not only the election outcome, and for all candidates, not just for one. This is not a case of sour grapes, but rather concern over how the election process is handled generally.
- **This case is about enfranchising voters.** The state and the registrars have tried to characterize this case as disenfranchising voters. This is the opposite of the truth. This case is about reversing disenfranchisement of citizen voters to restore fair and honest elections. Plaintiffs are challenging statutes, regulations and practices that diminish the value of a citizen's lawful vote by allowing unlawful votes to be counted.
- **This is a nonpartisan action.** Plaintiff EIPCa is a nonpartisan organization and Defendants are both Democrats and Republicans. The constitutional issues affect more than just one candidate or just one election. These are issues that must be remedied to ensure the integrity of future elections for all citizens.

- **There's absolutely no reason for there not to be transparency.** The state and the registrars have attempted to prevent the plaintiffs from conducting an audit. There is no legitimate reason to do this. It destroys faith in the process.

### **What are we asking the Court to do?**

- **We challenge specific unconstitutional election laws and procedures:**
  - Permanent and universal vote-by-mail, which sends out massive numbers of ballots to every active voter, including potentially over a million ineligible voters who remain on the rolls;
  - Elimination of effective signature verification, through laws and regulations that presume signatures to be valid even if there are significant differences between the signature and what's on file, insufficient time for election officials to verify signatures, and insufficient training for election officials in signature matching;
  - Ballot harvesting/ballot trafficking, which allows one person to collect and turn in potentially thousands of ballots, and to get paid to do so;
  - Ballot stuffing, which allows multiple ballots to be returned in a single official envelope, provided it has a signature for each ballot on it;
  - Voting using non-ballot papers, such as index cards, provided that they are returned in an official ballot envelope; and
  - Treating in-person voters differently than vote-by-mail voters, by closing in-person polling locations hours before midnight, yet allowing vote-by-mail voters to turn in ballots up until midnight, long after election results have begun to be announced.
  - Preventing effective observation, by keeping citizens observers 20, 30 or 40 feet away from the election processes or outside the facilities totally; under California law, these citizens have the right to observe all aspects of the election process, ask questions and get answers.
  - Secret "remaking" of ballots: where election officials transfer votes from a ballot that is not machine readable to one that is, outside the presence of observers; and

- Secret “adjudication” of ballots: where election officials enter votes on an electronic voting machine for ballots that the machine flags for adjudication, outside the presence of observers.
- **We are also asking for an audit to show the irregularities and disparate impact these laws, regulations and practices have had.** An audit of the paper ballots and envelopes and the data from the voting machines is needed to make sure that the votes match what is on paper, signatures are valid and any unauthorized access is discovered. The audit would be performed by qualified experts and could be overseen by a neutral special master.
- **We are asking for oversight of upcoming elections to make sure they are free and fair.** There are many elections coming up including special elections and possible recall elections in 2021, and primaries and a general election in 2022. We are asking the court to bar unconstitutional laws, regulations and practices in those elections.

### **How is the case going?**

- **Already, the case has achieved important concessions.** Several defendants have agreed to preserve the evidence that Plaintiffs seek to audit, and the judge has made clear their requirement to do so. Plaintiffs are ready and able to conduct an audit as soon as they are given access to the information.
- **This case is not affected by the recent Supreme Court decisions.** The recent Supreme Court cases challenged the conduct of the November 2020 election in other states. The Supreme Court found those challenges to be moot. This case challenges the conduct of future elections and so is not moot. It is also ripe for decision because the emergency regulations Plaintiffs challenge remain in effect through July 2021, while the statutes remain in effect permanently unless amended, repealed or declared unconstitutional. New elections are set to occur in some localities as early as March 2021, recall elections will likely take place later in 2021, and primary and general elections will take place in 2022. Enfranchising voters via an audit and challenges to unconstitutional procedures could not be timelier to ensure impending California elections are constitutional.

## **How could this impact current events?**

- **Our case gives us a head start on challenging much of H.R. 1, an unprecedented national assault on election integrity.** If successful, our case can provide precedent invalidating key portions of H.R., through a case that is already moving through the courts, rather than requiring a far-off legal challenge. Already passed through the House, H.R. would permanently entrench many of the pandemic era practices that our case challenges.
- **Preliminary relief in our case could directly impact the integrity of upcoming recall elections.** We ask for the appointment of a Special Master to oversee election procedures, and this Special Master would be empowered to regulate the recall election processes—providing direct judicial oversight, and increased integrity.