



US DISTRICT COURT
Eastern District of California
Docket for Case #2:17-cv-00973-KJM-CMK
Citizens for Fair Representation, et al. v. Padilla

Plaintiff:
Citizens for Fair Representation, et al

Represented by:
Gary L. Zerman Valencia, CA
Lead Attorney

Scott E. Stafne, PHV Arlington, WA
Lead Attorney
Pro Hac Vice

Defendant:
Alex Padilla
Secretary of State, State of California

Represented by:
George Michael Waters
Department of Justice, Office of the
Attorney General
1300 I Street
Sacramento, CA 95814

Date Filed	#	Docket Text
05/08/2017	1	COMPLAINT against Alex Padilla by all plaintiffs. (Attachments: # 1 Civil Cover Sheet, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C) (Zerman, Gary)
05/09/2017	2	[DISREGARD – see 4 Summons Re-issued]
05/09/2017	3	CIVIL NEW CASE DOCUMENTS ISSUED; Initial Scheduling conference SET for 9/14/2017 at 02:30 PM in Courtroom 3 (KJM) before District Judge Kimberly J. Mueller. (Attachments: # 1 Standing Order, # 2 Consent Form, # 3 VDRP)
05/09/2017	4	SUMMONS RE-ISSUED as to *Alex Padilla* with answer to complaint due within *21* days.
05/09/2017	5	SUMMONS RETURNED EXECUTED: Alex Padilla served on 5/9/2017
05/11/2017	6	PRO HAC VICE APPLICATION and PROPOSED ORDER submitted by Citizens for Fair Representation for attorney Scott E. Stafne to appear Pro Hac Vice. (Attachments: # 1 Affidavit Certificate of Good Standing) (Zerman, Gary)
05/16/2017	7	PRO HAC VICE ORDER signed by District Judge Kimberly J. Mueller on 5/16/2017. ADDING attorney Scott E. Stafne, PHV for Citizens for Fair Representation
05/23/2017	8	DECLINE TO PROCEED BEFORE US MAGISTRATE JUDGE by Alex Padilla. Attorney Waters, George Michael ADDED.
05/30/2017	9	MOTION to DISMISS by Alex Padilla. Motion Hearing set for 8/25/2017 at 10:00 AM in Courtroom 3 (KJM) before District Judge Kimberly J. Mueller (waters, George)
06/28/2017	10	MINUTE ORDER issued by Courtroom Deputy C. Schultz for District Judge Kimberly J. Mueller; On the court's own motion, the Status (Pretrial Scheduling) Conference set for 9/14/2017 is VACATED and ADVANCED to 8/25/2017 at 10:00 AM in Courtroom 3 before District Judge Kimberly J. Mueller, with the filing of a joint status report due seven days prior. (Text Only Entry)(Schultz, C)
07/28/2017	11	MOTION TO AMEND the 1 Complaint by all plaintiffs. Motion Hearing SET for 8/25/2017 at 10:00 AM in Courtroom 3 (KJM) before District Judge Kimberly J. Mueller. (Attachments # 1 Exhibit A, # 2 Exhibit B) (Zerman, Gary)
07/28/2017	12	NOTICE OF REQUIREMENT OF THREE JUDGE COURT pursuant to Local Rule 203 by all plaintiffs. (Zerman, Gary)
08/01/2017	13	OPPOSITION by Alex Padilla to 11 Motion to Amend the Complaint. (Waters, George)
08/02/2017	14	MINUTE ORDER issued by Courtroom Deputy A. Waldrop for District Judge Kimberly J. Mueller on 8/2/2017: In light of plaintiffs complaint and notice of requirement of three judge court, (ECF Nos. 1 , 12), the court has determined this case implicates 28 U.S. C. § 2284(a), providing for the convening of a three judge court. The court thereby DIRECTS the Clerk of Court to formally notify the

		Chief Judge of the Ninth Circuit of the pendency of this action, as 20 U.S.C. § 2284(b)(1) requires, so that he may appoint a three judge court. SO ORDERED. (Text Only Entry)
08/03/2017	15	EX PARTE APPLICATION for Order Reconsidering (#14) Minute Order, by Alex Padilla (Waters, George)
08/08/2017	16	OPPOSITION by Citizens for Fair Representation to 2 Motion to Dismiss. (Zerman, Gary)
08/10/2017	17	MINUTE ORDER issued by Courtroom Deputy C. Schultz for District Judge Kimberly J. Mueller. In light of defendant's ex parte request (ECF No. 15) for reconsideration of this court's Minute Order (EXF No. 14), the court hereby SETS the motion for reconsideration for hearing on August 25, 2017 at 10:00 a.m. and ORDERS the following shortened briefing schedule on the request: Plaintiffs' opposition is due Monday, August 14, 2017 at 9:00 a.m.; defendants' reply, if any, is due Friday, August 18, 2017 at 9:00 a.m. Hearing on the motion to dismiss and motion to amend (ECF Nos. 9 , 11) currently calendared for August 25 is CONTINUED to September 8, 2017 at 10:00 a.m., with any replies to oppositions to those motions now due by September 1, 2017 at noon. All hearings will be held in Courtroom 3 before District Judge Kimberly J. Mueller. (Text Only Entry)
08/10/2017	18	MINUTE ORDER issued by Courtroom Deputy C. Schultz for District Judge Kimberly J. Mueller; On the court's own motion, the Status (Pretrial Scheduling) Conference set for 8/25/2017 is VACATED and RESET for 9/8/2017 at 10:00 AM in Courtroom 3 before District Judge Kimberly J. Mueller, with the filing of a joint status report due seven days prior. (Text Only Entry).
08/13/2017	19	RESPONSE by Mark Baird, Steven Baird, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Fort Jones, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Marin County Green Party, Manuel Martinez, Kevin McGary, Katherine Radinovich, Terry Rapoza, Shasta National Indian Tribe, Patty Smith, Howard Thomas, Michael Thomas, Larry Wahl to 15 Ex Parte Application for Reconsideration. Attorney Stafne, Scott E. Added. (Stafne, Scott)
08/18/2017	20	REPLY by Alex Padilla re 15 Ex Parte Application for Reconsideration. (Waters, George)
08/22/2017	21	REPLY by RESPONSE by Mark Baird, Steven Baird, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Fort Jones, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Marin County Green Party, Manuel Martinez, Kevin McGary, Katherine Radinovich, Terry Rapoza, Shasta National Indian Tribe, Patty Smith, Howard Thomas, Michael Thomas, Larry Wahl to RESPONSE to [11] Motion to Amend the Complaint. (Zerman, Gary)

08/24/2017	22	MINUTE ORDER issued by Courtroom Deputy C. Schultz for District Judge Kimberly J. Mueller: Upon consideration of the parties' filings relating to the question of whether a three judge court need be convened to resolve defendant's pending motion to dismiss and plaintiffs' pending motion to amend, the court has determined that it is premature to request the convening of such a court prior to this court's threshold determination of jurisdiction and justiciability. See <i>Shapiro V. McManus</i> , 136 S. Ct. 450, 455 (2015). Defendant's ex parte application for reconsideration (ECF 15) is granted to the extent the direction to the clerk of the Court at ECF 14 is WITHDRAWN until the court has resolved the pending motions. The August 25, 2017 hearing on the application for reconsideration is VACATED. (Schultz, C)
08/25/2017	23	MOTION for SANCTIONS by CFR et al. Motion Hearing set for 9/8/2017 at 10:00 AM (KJM) before District Judge Kimberly J. Mueller (Attachments: # 1 Exhibit A, # 2 Declaration, # 3 Exhibit A to Zerman Declaration, # 4 Declaration)(Stafne, Scott)
09/01/2017	24	REPLY BY Alex Padilla to RESPONSE to 9 Motion to Dismiss. (Waters, George)
09/01/2017	25	JOINT STATUS REPORT by Alex Padilla (Waters, George)
09/01/2017	26	DECLARATION of Scott Stafne in SUPPORT OF 11 Motion to Amend the Complaint. (Zerman, Gary)
09/08/2017	27	MINUTES for MOTION HEARING and STATUS (PRETRIAL SCHEDULING) CONFERENCE held before District Judge Kimberly J. Mueller on 9/8/2017. Plaintiff Counsel, Scott Stafne and Gary Zerman, present. Some of the named plaintiffs also present, but were not introduced by counsel. Defendant's Counsel, George Waters, present. The court advised the parties it is not prepared to issue a complete scheduling order until preliminary matters are resolved. The court clarified why this case it not currently before a three judge panel. After discussion with the parties, the court advised the parties that it is not inclined to address the merits of the pending Motion to Dismiss (ECF No. 9), but rather inclined to allow for further amendment in light of the earl stage of the proceedings in this case. After discussion with the parties, the court took the matter under submission with a written order to issue granting leave to amend. The forthcoming order will clarify the limits of any amendment. Court Reporter: Cathie Bodene. (Text Only Entry) (Schultz, C).
9/14/2017	28	TRANSCRIPT REQUEST by Plaintiffs for proceedings held on 9/8/2017 before Judge Kimberly Mueller. Court Reporter Cathie Bodene.
9/29/2017	29	TRANSCRIPT of Proceedings held on September 8, 2017, Re: Motion Hearing, before District Judge Kimberly J. Mueller, filed by Court Reporter Cathie Bodene. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through Court

		Reporter Cathie Bodene or Pacer. Any Notice of Intent to Request Redaction must be filed within 5 court days. Redaction Request due 10/20/2017. Redacted Transcript Deadline set for 10/30/2017. Release of Transcript Restriction set for 12/29/2017.
10/30/2017	30	TRANSCRIPT REQUEST by Alex Padilla for proceedings held on 9/8/17 before Judge Kimberly J. Mueller. Court Reporter Cathie Bodene (Waters, George) (Entered: 10/03/2017).
12/14/2017	31	NOTICE <i>Of Events Occurring Since September 8, 2017 Oral Arguments</i> by All Plaintiffs re: 12 Notice - Other, 16 Opposition to Motion, 11 Motion to Amend the Complaint, 23 MOTION for SANCTIONS , 27 Motion Hearing,,,,, Scheduling Conference,,,,, Terminate Deadlines and Hearings,,,,, Order on Motion to Dismiss,,,,, Order on Motion to Amend the Complaint,,,,. (Attachments: # 1 Declaration, # 2 Exhibit 1, # 3 Exhibit 2)(Stafne, Scott) (Entered: 12/14/2017)
2/1/2018	32	ORDER signed by District Judge Kimberly J. Mueller on 1/31/2018 ORDERING the Plaintiffs' complaint, as currently articulated, asserts a generalized grievance that does not establish standing to sue in federal court. The complaint is also fraught with non-justiciable political questions. Accordingly, the court DISMISSES the complaint under Rule 12(b)(1) based on lack of subject-matter jurisdiction, but GRANTS plaintiffs leave to amend the complaint subject to the limitations discussed above. The amended complaint, limited to twenty-five pages, shall be filed within twenty-one days. Because a single-judge court lacks the authority to dismiss this case on the merits under Rule 12(b)(6), Shapiro, 136 S. Ct. at 455-56, the court DENIES without prejudice defendant's motion to dismiss under Rule 12(b)(6), subject to renewal should this case proceed before a three judge court at some point in the future. The court DENIES as MOOT plaintiffs' motion for sanctions. This resolves ECF Nos. 9 , 11 , 23 . (Becknal, R)
2/6/2018	33	EX PARTE APPLICATION by Mark Baird, Steven Baird, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Fort Jones, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Marin County Green Party, Manuel Martinez, Kevin McGary, Katherine Radinovich, Terry Rapoza, Shasta National Indian Tribe, Patty Smith, Howard Thomas, Michael Thomas, Larry Wahl for Extension of time to file second amended complaint. (Stafne, Scott)
2/12/2018	34	MINUTE ORDER issued by Courtroom Deputy C. Schultz for District Judge Kimberly J. Mueller: The court has received plaintiffs' ex parte application. ECF No. 33 . Plaintiffs have represented defendant's counsel "advised that he does not oppose" plaintiffs' request for an extension of time to file their First Amended Complaint. Id. at 2. If defendant intends to object or respond, defendant may do so within 72 hours. (Text Only Entry) (Schultz, C)
2/20/2018	35	DECLARATION of Scott E Stafne re 34 Minute Order, 33 Ex Parte Application. (Attachments: # (1) Exhibit 1)(Stafne, Scott)

2/20/2018	36	MINUTE ORDER issued by Courtroom Deputy C. Schultz for District Judge Kimberly J. Mueller: Plaintiffs' Unopposed Ex Parte Application for Extension of Time (ECF No. [33]) is GRANTED . Accordingly, the deadline for Plaintiffs to file a Second Amended Complaint is EXTENDED by two weeks to 3/8/2018. (Text Only Entry) (Schultz, C)
3/08/2018	37	MOTION for 10-DAY EXTENSION OF TIME to File Amended Complaint by Mark Baird, Steven Baird, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Fort Jones, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Marin County Green Party, Manuel Martinez, Kevin McGary, Katherine Radinovich, Terry Rapoza, Shasta National Indian Tribe, Patty Smith, Howard Thomas, Michael Thomas, Larry Wahl. (Attachments: # (1) Exhibit 1)(Stafne, Scott)
3/12/2018	38	MINUTE ORDER issued by Courtroom Deputy C. Schultz for District Judge Kimberly J. Mueller: The court has received plaintiffs' third request for an extension of time to file an amended complaint. ECF No. [37] . The court GRANTS this request, but notes no further extensions will be granted unless filed as a stipulated request and supported by good cause. The amended complaint shall be filed by March 19, 2018. (Text Only Entry) (Schultz, C)
3/19/2018	39	SECOND AMENDED COMPLAINT against Alex Padilla, Citizens Redistricting Commission, State of California by David Garcia, Kyle Carpenter, Michael Thomas, Roy Hall, Jr., Citizens for Fair Representation, Larry Wahl, John D'Agostini, Mark Baird, Shasta National Indian Tribe, California Libertarian Party, Leslie Lim, Win Carpenter, California American Independent Party, Mike Poindexter, Raymond Wong, City of Williams, Cindy Brown, City of Colusa. Attorney Stafne, Scott E. added. (Attachments: # (1) Exhibit , # (2) Exhibit , # (3) Exhibit , # (4) Exhibit , # (5) Exhibit)(Stafne, Scott)
3/19/2018	40	NOTICE of Requirement of Three Judge Court by Mark Baird, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Mike Poindexter, Shasta National Indian Tribe, Michael Thomas, Larry Wahl, Raymond Wong re [39] Amended Complaint,, (Stafne, Scott)
03/20/2018	41	STIPULATION to Extend Time to File Answer to Amended Complaint by Alex Padilla. (Waters, George)
04/16/2018	42	MOTION to DISMISS by Alex Padilla. Motion Hearing set for 6/15/2018 at 10:00 AM in Courtroom 3 (KJM) before District Judge Kimberly J. Mueller. (Waters, George)
04/30/2018	43	MOTION Motion to Convene Three Judge District Court by Mark Baird, Steven Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Mike

		Poindexter, Shasta National Indian Tribe, Larry Wahl, Raymond Wong. Motion Hearing set for 6/1/2018 at 10:00 AM in Courtroom 3 (KJM) before District Judge Kimberly J. Mueller. (Stafne, Scott)
05/17/2018	44	OPPOSITION by Alex Padilla to [43] Motion to Convene. (Attachments: # (1) Declaration of George Waters)(Waters,
05/22/2018	45	MINUTE ORDER issued by Courtroom Deputy C. Schultz for District Judge Kimberly J. Mueller: On the court's own motion and pursuant to Local Rule 230(g), Plaintiffs' Motion to Convene a Three Judge Court (ECF No. [43]) is SUBMITTED without oral argument. The motion is submitted on the briefs, including the reply brief, if any, filed in accordance with Local Rule 230(d). Accordingly, the hearing date of 6/1/2018 is VACATED. If the court determines that oral argument is needed, it will be scheduled at a later date. (Text Only Entry) (Schultz, C)
05/24/2018	46	RESPONSE by Mark Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Mike Poindexter, Larry Wahl, Raymond Wong to [42] Motion to Dismiss. (Stafne, Scott)
05/24/2018	47	REPLY by Mark Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Mike Poindexter, Larry Wahl, Raymond Wong re [44] Opposition to Motion. (Stafne, Scott)
06/01/2018	48	RESPONSE by Mark Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Mike Poindexter, Larry Wahl, Raymond Wong to [42] Motion to Dismiss. (Stafne, Scott)
06/08/2018	49	MINUTE ORDER issued by Courtroom Deputy C. Schultz for District Judge Kimberly J. Mueller: Due to a scheduling conflict and on the court's own motion, the Hearing as to Defendant's Motion to Dismiss (ECF No. [42]) set for 6/15/2018 is VACATED and ADVANCED to 6/14/2018 at 2:30 PM in Courtroom 3 before District Judge Kimberly J. Mueller. Filing deadlines remain
06/08/2018	50	REPLY by Alex Padilla re [42] Motion to Dismiss, [49] Minute Order,, Set/Reset Motion Hearing, [48] Response, [46] Response. (Waters, George)
06/12/2018	51	NOTICE of Supplemental Authority by Mark Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Mike Poindexter, Larry Wahl, Raymond Wong re [48] Response,. (Stafne, Scott)


06/15/2018	52	MINUTES for MOTION HEARING held before District Judge Kimberly J. Mueller on 6/15/2018. Plaintiffs' Counsel, Scott Stafne, present. Defendant's Counsel, George Waters, present. After hearing oral argument as to the defendant's Motion to Dismiss (ECF no. [42]), the court took the matter under submission with a written order to follow. Court Reporter: Kelly O'Halloran. (Text Only Entry) (Michel, G.)
06/19/2018	53	EX PARTE APPLICATION by Citizens for Fair Representation for To File Briefing Supreme Court Decision. (Stafne, Scott)
06/21/2018	54	TRANSCRIPT REQUEST by Mark Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Mike Poindexter, Larry Wahl, Raymond Wong for proceedings held on June 14, 2018 before Judge Mueller. Court Reporter Kelly O'Halloran. (Stafne,
6/22/2018	55	TRANSCRIPT of Motion to Dismiss held on 6/14/18, before District Judge Kimberly J. Mueller, filed by Court Reporter Kelly O'Halloran, Phone number 916-448-2712 E-mail kohalloran@comcast.net . Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Any Notice of Intent to Request Redaction must be filed within 5 court days. Redaction Request due 7/13/2018. Redacted Transcript Deadline set for 7/23/2018. Release of Transcript Restriction set for 9/20/2018. (O'Halloran, K)
6/22/2018	56	TRANSCRIPT REQUEST by Alex Padilla for proceedings held on June 14, 2018 before Judge Mueller. Court Reporter Kelly O'Halloran. (Waters, George)
6/26/2018	57	OPPOSITION by Defendant Alex Padilla. (Waters, George)
6/26/2018	58	NOTICE of Supplemental Authority by Mark Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Mike Poindexter, Larry Wahl, Raymond Wong re [48] Response, [46] Response. (Attachments: # (1) Exhibit Abbott v Perez 2018 U.S. Lexis

06/26/2018	59	APPLICATION for <i>Ex Parte Application for Request for Stay of Proceedings</i> by Mark Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Mike Poindexter, Larry Wahl, Raymond Wong re [52] Motion Hearing, [45] Minute Order,,, Terminate Deadlines and Hearings,,, Order on Motion for Miscellaneous Relief,, [43] Motion to Convene filed by Mike Poindexter, Raymond Wong, City of Colusa, California American Independent Party, Mark Baird, Steven Baird, Kyle Carpenter, Roy Hall, Jr., California Libertarian Party, Larry Wahl, Leslie Lim, Citizens for Fair Representation, John D'Agostini, Shasta National Indian Tribe, Cindy Brown, City of Williams, David Garcia, Win Carpenter. (Attachments: # (1) Exhibit A , # (2) Exhibit B , # (3) Exhibit C , # (4) Exhibit D , # (5) Certificate of Service)(Stafne, Scott)
6/29/2018	60	RESPONSE by Alex Padilla to [58] Notice - Other. (Waters, George)
6/29/2018	61	OPPOSITION by Alex Padilla to [59] Motion to Stay. (Waters, George)
7/03/2018	62	REPLY by Mark Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Mike Poindexter, Larry Wahl, Raymond Wong re [61] Opposition to Motion. (Attachments: # (1) Exhibit 1 , # (2) Exhibit 2)(Stafne, Scott)
08/01/2018	63	ORDER signed by District Judge Kimberly J. Mueller on 8/1/2018 DENYING without prejudice [43] Motion to convene a three-judge court. (York, M)
08/01/2018	64	ORDER signed by District Judge Kimberly J. Mueller on 8/1/2018 DENYING [53] ex parte request to file additional briefing and DENYING [59] Request for Stay. (York, M)
08/02/2018	65	REQUEST for JUDICIAL NOTICE by Mark Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Mike Poindexter, Larry Wahl, Raymond Wong in re [42] Motion to Dismiss. (Attachments: # (1) Exhibit 1)(Stafne, Scott)

09/04/2018	<u>66</u>	ORDER REASSIGNING CASE by Chief Judge Lawrence J. O'Neill: Due to the appointment of *Magistrate Judge Dennis M. Cota* to the bench of the Eastern District of California, this action is reassigned from *Magistrate Judge Craig M. Kellison* to Magistrate Judge Dennis M. Cota for all further proceedings.(Donati, J)
11/29/2018	<u>67</u>	ORDER signed by District Judge Kimberly J. Mueller on 11/28/2018 GRANTING 42 Motion to Dismiss. The Court DISMISSED the complaint for lack of subject matter jurisdiction without leave to amend. CASE CLOSED (Washington, S) (Entered: 11/29/2018)
11/29/2018	<u>68</u>	JUDGMENT dated *11/29/2018* pursuant to order signed by District Judge Kimberly J. Mueller on 11/28/2019. (Washington, S) (Entered: 11/29/2018)
12/27/2018	<u>69</u>	NOTICE of APPEAL re 68 Judgment by Plaintiffs. (Filing fee \$ 505, receipt number 0972-8035012) (Stafne, Scott) Modified on 12/28/2018 (Kaminski, H). (Entered: 12/27/2018)
12/28/2018	<u>70</u>	APPEAL PROCESSED to Ninth Circuit re 69 Notice of Appeal. Notice of Appeal filed *12/27/2018*, Complaint filed *5/8/2017* and Appealed Order / Judgment filed *11/29/2018*. Court Reporter: *Cathie Bodene*. *Fee Status: Paid on 12/27/2018 in the amount of \$505.00* (Attachments: # 1 Appeal Information) (Kaminski, H) (Entered: 12/28/2018)

18-17458

IN THE
United States Court of Appeals
FOR THE NINTH CIRCUIT




CITIZENS FOR FAIR REPRESENTATION; et al.,

Plaintiffs-Appellants,

v.

SECRETARY OF STATE ALEX PADILLA,

Defendant-Appellee.



On Appeal from the United States District Court
for the Eastern District of California
No. 2:17-cv-00973-KJM-CMK

APPELLANTS' OPENING BRIEF

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**General Docket
United States Court of Appeals for the Ninth Circuit**

Court of Appeals Docket #: 18-17458 **Docketed:** 12/31/2018
Nature of Suit: 3441 Civil Rights Voting
 CFR, et al v. Alex Padilla
Appeal From: U.S. District Court for Eastern California, Sacramento
Fee Status: Paid

Originating Court Information:

District: 0972-2 : [2:17-cv-00973-KJM-DMC](#)
Court Reporter: Catherine E.F. Bodene
Court Reporter: Kelly Ann O'Halloran
Trial Judge: Kimberly J. Mueller, District Judge
Date Filed: 05/08/2017

Date	Date Order/Judgment	Date NOA	Date Rec'd
Order/Judgment:	EOD:	Filed:	COA:
11/29/2018	11/29/2018	12/27/2018	12/28/2018

12/31/2018	<u>1</u>	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. SEND MQ: Yes. The schedule is set as follows: Mediation Questionnaire due on 01/07/2019. Transcript ordered by 01/28/2019. Transcript due 02/25/2019. Appellants Mark Baird, Steven Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall Jr., Leslie Lim, Manuel Martinez, Kevin McGary, Mike Poindexter, Terry Rapoza, Shasta National Indian Tribe, Howard Thomas, Michael Thomas, Larry Wahl and Raymond Wong opening brief due 04/08/2019. Appellee Alex Padilla answering brief due 05/06/2019. Appellant's optional reply brief is due 21 days after service of the answering brief. [11136791] (JBS) [Entered: 12/31/2018 09:36 AM]
01/02/2019	<u>2</u>	Filed (ECF) Appellants Mark Baird, Steven Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Manuel Martinez, Kevin McGary, Mike Poindexter, Terry Rapoza, Shasta National Indian Tribe, Howard Thomas, Michael Thomas, Larry Wahl and Raymond Wong Mediation Questionnaire. Date of service: 01/02/2019. [11138897] [18-17458] (Stafne, Scott) [Entered: 01/02/2019 01:53 PM]

01/02/2019	3	<p>The Mediation Questionnaire for this case was filed on 01/02/2019. To submit pertinent confidential information directly to the Circuit Mediators, please use the following link. Confidential submissions may include any information relevant to mediation of the case and settlement potential, including, but not limited to, settlement history, ongoing or potential settlement discussions, non-litigated party related issues, other pending actions, and timing considerations that may impact mediation efforts.[11139552] (AD) [Entered: 01/02/2019 06:45 PM]</p>
01/15/2019	4	<p>MEDIATION ORDER FILED: The Mediation Program of the 9th Circuit Court of Appeals facilitates settlement while appeals are pending. By 01/29/2019, counsel for all parties intending to file briefs in this matter are requested to inform the Circuit Mediator by email of their clients' views on whether the issues on appeal or the underlying dispute might be amenable to settlement presently or in the foreseeable future. This communication will be kept confidential, if requested... This communication should not be filed with the court... The existing briefing schedule remains in effect... [11153384] (CL) [Entered: 01/15/2019 10:15 AM]</p>
01/18/2019	5	<p>Filed (ECF) Streamlined request for extension of time to file Opening Brief by Appellants Mark Baird, Steven Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Manuel Martinez, Kevin McGary, Mike Poindexter, Terry Rapoza, Shasta National Indian Tribe, Howard Thomas, Michael Thomas, Larry Wahl and Raymond Wong. New requested due date is 05/08/2019. [11158963] [18-17458] (Stafne, Scott) [Entered: 01/18/2019 11:35 AM]</p>
01/18/2019	6	<p>Streamlined request [5] by Appellants Mark Baird, Steven Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Manuel Martinez, Kevin McGary, Mike Poindexter, Terry Rapoza, Shasta National Indian Tribe, Howard Thomas, Michael Thomas, Larry Wahl and Raymond Wong to extend time to file the brief is approved. Amended briefing schedule: Appellants Mark Baird, Steven Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall Jr., Leslie Lim, Manuel Martinez, Kevin McGary, Mike Poindexter, Terry Rapoza, Shasta National Indian Tribe, Howard Thomas, Michael Thomas, Larry Wahl and Raymond Wong opening brief due 05/08/2019. Appellee Alex Padilla answering brief due 06/07/2019. The optional reply brief is due 21 days from the date of service of the answering brief. [11159271] (JN) [Entered: 01/18/2019 01:33 PM]</p>

02/08/2019	7	MEDIATION ORDER FILED: This case is RELEASED from the Mediation Program. Counsel are requested to contact the Circuit Mediator should circumstances develop that warrant further settlement discussions. [11184066] (CL) [Entered: 02/08/2019 11:55 AM]
02/22/2019	8	Filed (ECF) notice of appearance of Anna Theresa Ferrari for Appellee Alex Padilla. Date of service: 02/22/2019. (Party previously proceeding without counsel: No) [11205115] [18-17458] (Ferrari, Anna) [Entered: 02/22/2019 04:00 PM]
02/22/2019	9	Added attorney Anna Ferrari for Alex Padilla, in case 18-17458. [11205152] (JFF) [Entered: 02/22/2019 04:10 PM]
04/26/2019	10	Filed (ECF) Appellants Mark Baird, Steven Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Manuel Martinez, Kevin McGary, Mike Poindexter, Terry Rapoza, Shasta National Indian Tribe, Howard Thomas, Michael Thomas, Larry Wahl and Raymond Wong Unopposed Motion to extend time to file Opening brief until 06/07/2019. Date of service: 04/26/2019. [11279209] [18-17458] (Stafne, Scott) [Entered: 04/26/2019 03:05 PM]
05/06/2019	11	Filed (ECF) notice of appearance of Alex Kozinski for Appellants Mark Baird, Steven Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Manuel Martinez, Kevin McGary, Mike Poindexter, Terry Rapoza, Shasta National Indian Tribe, Howard Thomas, Michael Thomas, Larry Wahl and Raymond Wong. Date of service: 05/06/2019. (Party previously proceeding without counsel: No) [11288469] [18-17458] (Kozinski, Alex) [Entered: 05/06/2019 05:06 PM]
05/07/2019	12	Added attorney Alex Kozinski for Citizens for Fair Representation Win Carpenter Kevin McGary City of Williams Mike Poindexter Larry Wahl Kyle Carpenter Raymond Wong Terry Rapoza Cindy Brown Michael Thomas California Libertarian Party Roy Hall Jr. Manuel Martinez Shasta National Indian Tribe California American Independent Party Mark Baird Steven Baird David Garcia City of Colusa John D'Agostini Leslie Lim Howard Thomas. [11288818] (RL) [Entered: 05/07/2019 09:41 AM]
05/07/2019	13	Filed clerk order (Deputy Clerk: LBS): Appellants' unopposed motion (Docket Entry No. 10) for an extension of time to file the opening brief is granted. The opening brief is due June 7, 2019. The answering brief is due July 8, 2019. The optional reply brief is due within 21 days after service of the answering brief. [11289439] (OC) [Entered: 05/07/2019 01:40 PM]

06/03/2019	14	Submitted (ECF) Opening Brief for review. Submitted by Appellants Mark Baird, Steven Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Manuel Martinez, Kevin McGary, Mike Poindexter, Terry Rapoza, Shasta National Indian Tribe, Howard Thomas, Michael Thomas, Larry Wahl, Raymond Wong and Appellee Alex Padilla. Date of service: 06/03/2019. [11316516] [18-17458] (Kozinski, Alex) [Entered: 06/03/2019 12:52 AM]
06/03/2019	15	Submitted (ECF) excerpts of record. Submitted by Appellants Mark Baird, Steven Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Manuel Martinez, Kevin McGary, Mike Poindexter, Terry Rapoza, Shasta National Indian Tribe, Howard Thomas, Michael Thomas, Larry Wahl and Raymond Wong. Date of service: 06/03/2019. [11316517] [18-17458] (Kozinski, Alex) [Entered: 06/03/2019 12:57 AM]
06/03/2019	16	Filed clerk order: The opening brief [14] submitted by appellants is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: blue. The Court has reviewed the excerpts of record [15] submitted by appellants. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [11316978] (SML) [Entered: 06/03/2019 10:52 AM]
06/11/2019	17	Filed 4 paper copies of excerpts of record [15] in 1 volume(s) filed by Appellants. [11327200] (SML) [Entered: 06/11/2019 02:57 PM]
06/11/2019	18	Received 7 paper copies of Opening Brief [14] filed by appellants. [11327228] (SD) [Entered: 06/11/2019 03:03 PM]
06/25/2019	19	Filed (ECF) Streamlined request for extension of time to file Answering Brief by Appellee Alex Padilla. New requested due date is 08/07/2019. [11343436] [18-17458] (Ferrari, Anna) [Entered: 06/25/2019 10:23 AM]
06/25/2019	20	Streamlined request [19] by Appellee Alex Padilla to extend time to file the brief is approved. Amended briefing schedule: Appellee Alex Padilla answering brief due 08/07/2019. The optional reply brief is due 21 days from the date of service of the answering brief. [11343468] (KRK) [Entered: 06/25/2019 10:34 AM]
08/07/2019	21	Submitted (ECF) Answering Brief for review. Submitted by Appellee Alex Padilla. Date of service: 08/07/2019. [11390335] [18-17458] (Ferrari, Anna) [Entered: 08/07/2019 03:23 PM]
08/08/2019	22	Filed clerk order: The answering brief [21] submitted by Alex Padilla is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification

		(attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: red. The paper copies shall be submitted to the principal office of the Clerk. [11390953] (SML) [Entered: 08/08/2019 10:20 AM]
08/12/2019	23	Received 7 paper copies of Answering Brief [21] filed by Alex Padilla. [11396181] (SD) [Entered: 08/13/2019 02:51 PM]
08/15/2019	24	Filed (ECF) Streamlined request for extension of time to file Reply Brief by Appellants Mark Baird, Steven Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Manuel Martinez, Kevin McGary, Mike Poindexter, Terry Rapoza, Shasta National Indian Tribe, Howard Thomas, Michael Thomas, Larry Wahl and Raymond Wong. New requested due date is 09/26/2019. [11398596] [18-17458] (Stafne, Scott) [Entered: 08/15/2019 01:33 PM]
08/15/2019	25	Streamlined request [24] by Appellants Mark Baird, Steven Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Manuel Martinez, Kevin McGary, Mike Poindexter, Terry Rapoza, Shasta National Indian Tribe, Howard Thomas, Michael Thomas, Larry Wahl and Raymond Wong to extend time to file the brief is approved. Streamlined requests allow for a 30 day extension of time to file the brief. Amended briefing schedule: the optional reply brief is due 09/27/2019. [11398615] (JN) [Entered: 08/15/2019 01:43 PM]
09/20/2019	26	Filed (ECF) Appellants Mark Baird, Steven Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Manuel Martinez, Kevin McGary, Mike Poindexter, Terry Rapoza, Shasta National Indian Tribe, Howard Thomas, Michael Thomas, Larry Wahl and Raymond Wong Motion to extend time to file Reply brief until 10/28/2019. Date of service: 09/20/2019. [11439675] [18-17458] (Kozinski, Alex) [Entered: 09/20/2019 10:40 PM]
09/26/2019	27	Filed clerk order (Deputy Clerk: LBS): Appellants' unopposed motion (Docket Entry No. [26]) for an extension of time to file the optional reply brief is granted. The optional reply brief is due October 28, 2019. [11444734] (OC) [Entered: 09/26/2019 11:45 AM]
10/07/2019	28	This case is being considered for an upcoming oral argument calendar in San Francisco. When setting your argument date, the court will try to work around unavoidable conflicts; the court is not able to accommodate mere scheduling preferences. You will receive notice that your case has been assigned to a calendar approximately 10 weeks before the scheduled oral argument date. If the parties wish to discuss settlement before an argument date is set,

		they should jointly request referral to the mediation unit by filing a letter within 3 business days of this notice , using CM/ECF (Type of Document: File Correspondence to Court; Subject: request for mediation).[11456374][18-17458] (AW) [Entered: 10/07/2019 01:51 PM]
10/10/2019	29	Filed (ECF) Attorney Anna Ferrari for Appellee Alex Padilla response to notice for case being considered for oral argument. Date of service: 10/10/2019. [11460491] [18-17458] (Ferrari, Anna) [Entered: 10/10/2019 10:46 AM]
10/13/2019	30	Filed (ECF) Attorney Mr. Alex Kozinski for Appellants Mark Baird, Steven Baird, Cindy Brown, California American Independent Party, California Libertarian Party, Kyle Carpenter, Win Carpenter, Citizens for Fair Representation, City of Colusa, City of Williams, John D'Agostini, David Garcia, Roy Hall, Jr., Leslie Lim, Manuel Martinez, Kevin McGary, Mike Poindexter, Terry Rapoza, Shasta National Indian Tribe, Howard Thomas, Michael Thomas, Larry Wahl and Raymond Wong response to notice for case being considered for oral argument. Date of service: 10/13/2019. [11463048] [18-17458] (Kozinski, Alex) [Entered: 10/13/2019 07:55 PM]
10/29/2019	31	Filed clerk order: The reply brief [31] submitted by appellants is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: gray. The paper copies shall be submitted to the principal office of the Clerk. [11481139] (SML)
