

1 MELODY A. KRAMER, SBN 169984
2 KRAMER LAW OFFICE, INC.
3 4010 Sorrento Valley Blvd., Ste. 400
4 San Diego, California 92121
5 Telephone (855) 835-5520
6 kramerlawinc@gmail.com

7 ANDREW J. DHUEY, SBN 161286
8 456 Boynton Avenue
9 Berkeley, CA 94707
10 Telephone (510) 528-8200
11 dhueyaj@yahoo.com

12 Attorney for Plaintiff

13 UNITED STATES DISTRICT COURT
14 FOR THE NORTHERN DISTRICT OF CALIFORNIA

| | | |
|----|-----------------------------------------------------|--------------------------------|
| 15 | VINZENZ J. KOLLER, an individual and Presidential) | Case No. 5:16-cv-07069 |
| 16 | Elector,) | |
| 17 | Plaintiffs,) | PLAINTIFF’S RESPONSE TO |
| 18 | v.) | MOTIONS TO INTERVENE |
| 19 | JERRY BROWN, in his official capacity as) | [DOC. #14 and #22] |
| 20 | Governor for the State of California; KAMALA) | Date: to be expedited |
| 21 | HARRIS, in her official capacity as Attorney) | Time: |
| 22 | General for the State of California; ALEX) | Courtroom 4, Fifth Floor |
| 23 | PADILLA, in his official capacity as Secretary) | Hon. Edward J. Davila |
| 24 | of State for the State of California; and DOES 1-) | |
| 25 | 10;) | |
| 26 | Defendants.) | |
| 27 | | |
| 28 | | |

25 Plaintiff Vinzenz Koller, through his counsel, agreed to not oppose requests to
26 intervene in this case by the California Republican Party (“California GOP”), Donald J.
27 Trump, or Donald J. Trump for President, Inc. (“Trump”) in an effort to not burden the
28

1 Court with additional procedural motions.

2 Plaintiff stands by its agreement to not oppose intervention into the actual case
3 presented – whether California election laws that coerce and criminalize presidential
4 electors who vote their conscience and in the best interests of the country, are
5 unconstitutional and/or in violation of federal law which specifically criminalizes
6 intimidation of votes “for President [and] Vice-President” (18 U.S.C. § 594) and the
7 parallel state law (*Election Code* § 18540(a)).

8 Plaintiff does object, however, to the proposed intervenors attempting to improperly
9 expand the scope of this action.

10 Mr. Trump’s motion indicates that one of its “interests” in this lawsuit include
11 “ensuring other states’ laws are respected” and “ensuring that Mr. Trump is officially
12 elected to the presidency” (Doc. #22, pg. 5:28-6:3)¹

13 The California GOP seeks to “protect its interest in ... its bylaws” considering
14 “revamp[ing] its process for choosing Presidential Electors by elevating loyalty to
15 individual candidates² over other factors...” Doc. #14:12-21. It also explicitly seeks to
16 “promot[e] the election of Donald J. Trump and Mike Pence as President and Vice
17 President of the United States” Doc. #14, pg. 3:25-26; 4:2-3; 5:5-6; 6:1-2³.

18 All three proposed intervenors also seek attorney fees, in complete contravention of
19 law, and in an obvious attempt to try to intimidate both an elector and his pro bono counsel
20 with the force of unlimited financial resources.

21
22 ¹ After trying to expand the suit to involve a purely political question – who will
23 become President and Vice President -- in their Answer they then claim that the case is
24 “barred by the political-question doctrine” (Doc. #24, pg. 4:27).

25 ² This reference to “loyalty” certainly seems to convey a threat to all presidential
26 electors who read their briefing that any disloyalty to Trump will result in negative action
within the party

27 ³ Their Answer also claims that the case is “barred by the political-question
28 doctrine” (Doc. #14, pg. 5:2-3).

1 Plaintiff has not asked this Court to decide who gets elected as President or Vice-
2 President, nor would it be proper to do so. Plaintiff has not asked this Court to make rulings
3 on the laws in other states; those issues are not properly before this Court. Plaintiff has not
4 asked this Court to meddle in a political party's bylaws or means of selecting electors;
5 those issues are not before this Court either.

6 Plaintiff is only requesting a ruling on the constitutionality of the specified
7 California state law. As to that issue, Plaintiff is not opposing intervention and welcomes
8 Mr. Trump and the Republican Party to join in the process of a thorough review of the
9 constitutionality and legality of a statute that threatens an elector with jail if he doesn't vote
10 along party lines.

11
12 DATED this 13th day of December, 2016.

13
14 /s/ Melody A. Kramer
15 Melody A. Kramer, Esq.
16 Attorney for Plaintiff
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

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 Tuesday, December 13, 2016 I served the following documents:

**PLAINTIFF'S RESPONSE TO MOTIONS TO INTERVENE
[DOC. #14 and #22]**

| PERSON(S) SERVED | PARTY(IES) SERVED | METHOD OF SERVICE |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|--------------------------------------------------------|
| Gov. Jerry Brown c/o State Capitol, Ste. 1173 Sacramento, CA 95814 | Gov. Jerry Brown | U.S. Mail |
| Kamala Harris Office of the Attorney General 1300 "I" Street Sacramento, CA 95814 | Kamala Harris | U.S. Mail |
| Alex Padilla, Secretary of State 1500 – 11 th Street Sacramento, CA 95814 | Alex Padilla | U.S. Mail |
| Charles H. Bell, Jr. Brian T. Hildreth Terry J. Martin Bell, McAndrews & Hiltachk, LLP 455 Capitol Mall, Suite 600 Sacramento, CA 95814 | Proposed Intervenor California Republican Party | Email--Pleadings Filed with the Court via CM/ECF |
| Brian Selden Jones Day 1755 Embarcadero Road Palo Alto, CA 94303 | Proposed Intervenors Donald J. Trump and Donald J. Trump for President, Inc. | Email--Pleadings Filed with the Court via CM/ECF |

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (Personal Service) I caused to be personally served in a sealed envelope hand-delivered to the office of counsel during regular business hours.
- (Federal Express) I deposited or caused to be deposited today with Federal Express in a sealed envelope containing a true copy of the foregoing documents with fees fully prepaid addressed to the above noted addressee for overnight delivery.
- (Facsimile) I caused a true copy of the foregoing documents to be transmitted by facsimile machine to the above noted addressees. The facsimile transmissions were reported as complete and without error.
- (Email) I emailed a true copy of the foregoing documents to an email address represented to be the correct email address for the above noted addressee.
- (Email--Pleadings Filed with the Court) 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.
- (U.S. Mail) I mailed a true copy of the foregoing documents to a mail address represented to be the correct mail address for the above noted addressee.

I declare that the foregoing is true and correct, and that this declaration was executed on Tuesday, December 13, 2016, in San Diego, California.

/s/ Melody A. Kramer

Melody A. Kramer