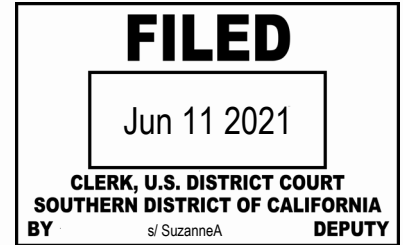


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4 27636 Ynez Road, Suite L-7 #111  
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6 (949) 500-1850  
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8 *Plaintiffs, In Propria Persona*



NUNC PRO TUNC

Jun 10 2021

9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA

11  
12 CONSTITUTION ASSOCIATION, INC., by  
13 its founders, GEORGE F. X. ROMBACH  
14 and DOUGLAS V. GIBBS as well as other  
15 officers and members of the Association et. al.

16 Plaintiffs,

17 vs.

18  
19 KAMALA DEVI HARRIS,

20 Defendant.

Case No. 20CV2379 TWR BLM

21  
22 **FIRST AMENDED**  
23 **RESPONSE TO THE EX PARTE APPLIC-**  
24 **ATION and CAUSE WHY THIS ACTION**  
25 **SHOULD NOT BE DISMISSED**

Judge: Hon. Todd W. Robinson

Department: Courtroom 3A

Complaint Filed: December 7, 2020

26  
27 **INTRODUCTION**

28 As set forth in Plaintiffs' response, the government of the United States of America, that is  
NOT a party of this action and has no standing therein. Plaintiffs seek leave of this Court to file  
this amendment to their reply to the government's *Ex Parte* Application interfering in this action.  
The government's interference is seeking to set aside the Entry of Default that was properly

1 entered against Defendant Kamala Devi Harris as an individual for personally committing an  
2 unconstitutional action of running for the office of Vice President of the United States of America  
3 for which Plaintiffs allege she is not eligible to hold. Defendant is not being sued for any act or  
4 omission occurring in connection with duties performed on the United States' behalf.

## 6 I

### 7 THIS IS NOT A POLITICAL QUESTION

8 The sole issue in this action is whether the Defendant, a member of the Democratic Party,  
9 is not constitutionally eligible to hold the Office of President or Vice President. In the Complaint  
10 in this action, Plaintiffs also allege that three Republican candidates were likewise not eligible to  
11 hold the Office of President, but withdrew from the race before the commencement of this action.  
12 Plaintiffs are non-partisan as to this action and have no issue with the political affiliation of any  
13 candidate, they are simply seeking that the provisions of the Constitution be complied with. The  
14 issue of eligibility to hold either the Office of President or Vice President is **NOT** a task  
15 constitutionally assigned to any other branch of government. The eligibility issue was established  
16 by the Framers of the Constitution when it was written and ratified, and they gave no other branch  
17 of government any authority in the matter of eligibility to serve as President or Vice President  
18 whatsoever. Nowhere in the Constitution is any authority given to Congress regarding the issue of  
19 eligibility to hold either the Office of President or Vice President. Accordingly, this action does  
20 not in any way make it necessary to interfere in a political matter that is within the dominion of  
21 any other branch of the government. The issue before this Court is whether or not the Defendant  
22 is eligible to the Office of President or Vice President as required by the Constitution. This is  
23 NOT a political issue; In NO way involves separation of powers; and Nor has the government  
24 presented any authority whatsoever that the resolution of that issue unduly intrude on any "policy  
25 choices and value judgments that are constitutionally committed to Congress or the executive  
26 branch" as put forth in *Koohi v. U.S.* 976 F.2d 1328, 1331 (9<sup>th</sup> Cir. 1992), or the Constitution's  
27 division of powers. It is strictly a legal issue of whether or a not a Constitutional requirement has  
28 been complied with.

1 II

2 THE STATE OR THE PEOPLE HAVE AUTHORITY OVER

3 ELIGIBILITY OF THE PRESIDENT AND VICE PRESIDENT

4 The first sentence of Section. 5. of Article. I of the Constitution expressly provides  
5 that “Each House shall be the Judge of the Elections, Returns and Qualifications of **its own**  
6 **Members**” (emphasis added) and granted no other authority whatsoever regarding the eligibility  
7 to the Office of President or Vice President. Further nowhere in the Constitution does it provide  
8 for any such authority. However, the Constitution is very specific as to any powers not expressly  
9 granted in Amendment X. thereto which provides as follows: “The powers not delegated to the  
10 United States by the Constitution, nor prohibited by it to the States, are reserved to the States  
11 respectively, or **to the people.**” (emphasis added). As such, the Constitution has expressly  
12 provided that the individual Plaintiffs of this action are among those to have the authority over  
13 eligibility to the Office of President or Vice President. The government cannot ban the rights  
14 which constitutionally-protected and are at issue in this action. Therefore, those Plaintiffs have  
15 standing to bring on this matter.  
16  
17

18 III

19 DEFENDANT WAS SERVED

20 In the *Ex Parte* Application the United States Attorney’s Office FAILED to disclose that  
21 service of the Summons and Complaint was in fact signed for on March 9, 2021, the proof of  
22 service of which was filed with this Court. Plaintiffs’ are unaware of the reason for this omission.  
23

24 IV

25 DEFENDANT DID NOT RESPOND

26 Defendant has not yet pled, defended or otherwise responded in any way to the Complaint  
27 on file in this action. In the *Ex Parte* Application the United States Attorney’s Office clearly  
28 indicates that they are representing the United States and NOT the Defendant.

**UNITED STATES NOT REQUIRED TO BE SERVED**

Plaintiffs are NOT required to serve the United States government because Defendant was not a 'United States officer or employee' when the actions alleged in the Complaint on file herein were committed. At the time of filing, December 7, 2020, the defendant was not at that time officially an inaugurated member of the U.S. Government as Vice President of the United States. Therefore, when the complaint was served on April 26, 2021 the service was not required to include the United States because at the time of filing the complaint was only against the defendant, Kamala Devi Harris, who was at the time merely Vice President Elect. In the argument by the United States alleging that the "Plaintiffs Have Not Effectuated Service of Their Complaint" it is argued that Fed R. Civ. P. Rule 4(i) sets forth the requirements for serving the United States and its agencies, officers, and employees. To wit "To serve a United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf (whether or not the officer or employee is also sued in an official capacity), a party *must serve the United States and also serve the officer or employee* under Rule 4(e), (f), or (g)."

The application of the rule listed by the United States is not applicable because the defendant is not an officer or employee of the United States Government. According to the final clause of Article II, Section 3 of the United States Constitution, the President "shall Commission all the Officers of the United States." The Vice President does not receive a commission from the President, therefore, since all Officers of the United States shall receive a commission, the lack of commission provides the conclusion that the Vice President is not an officer of the Government of the United States. The Vice President is also not an employee of the government, for according to Article I, Section 6 of the U.S. Constitution officers and those appointed to civil Office under the Authority of the United States receive an emolument. However, Article I, Section 6, Clause 1 states that "The Senators and Representatives shall receive a Compensation for their Services," and Article II, Section 1, Clause 8 states that "The President shall, at stated Times, receive for his Services, a Compensation." S.103 on January 11, 1949. (U.S. Congress, Senate Committee on

1 Post Office and Civil Service, President, Vice President and Speaker of the House—  
2 Compensation and Expenses) provides that the Vice President, along with the President, and the  
3 Speaker of the House, receives a compensation for their services. According to the United States  
4 Constitution officers and employees receive an emolument for their services, but representatives  
5 receive a compensation. Since the Vice President receives a compensation. The conclusion is that  
6 Vice President Kamala Harris is not an officer or employee of the Government of the United  
7 States, but a representative.

## 8 VI

### 9 IMPORTANCE OF CORRECTING UNCONSTITUTIONAL ACTIVITIES

10 The Supreme Court, under the early years of the John Marshall's tenure as Chief Justice of  
11 the United States, offered in its 1803 decision in *Marbury v. Madison* 5 U.S. (1 Cranch) 137  
12 (February 24, 1803) that "*All laws which are repugnant to the Constitution* are null and void."  
13 Laws are not constitutional simply because Congress passed them. If shown to be inconsistent  
14 with the Constitution, those laws should no longer be followed. Should not the same basic  
15 principle apply to the actions of the federal government, as well as other constitutional concepts  
16 such as eligibility for office?

17 If an unjust law is no law at all, would not an ineligible candidate for office be no  
18 candidate at all?

19 The American people and the Constitution they ratified provides the standard for the  
20 conduct of the United States Government regarding all of its laws, actions, and if an authority is  
21 granted regarding laws and actions in the first place. If we cannot even follow the proper rules  
22 regarding eligibility, are we not embracing all other demonstrably erroneous interpretations of that  
23 Constitution once those ineligible people proposit to take office?

## 24 VII

### 25 GOVERNANCE OF PRECEDENT

26 In *Gamble v. United States*, No. 17-646, 587 U.S. (June 17, 2019) Supreme Court Justice  
27 Clarence Thomas wrote a concurring opinion to "address the proper role of stare decisis," the idea  
28 that the court should generally follow its prior decisions. While Thomas joined six of his fellow

1 justices in the decision not to overrule precedent, Thomas in his opinion provided a view that  
2 “When faced with a demonstrably erroneous precedent, my rule is simple: We should not follow  
3 it”

4 In his argument, Justice Thomas simply wanted to let the Constitution, the real  
5 Constitution, be the supreme law of the land.

6 In 1949, Justice William O. Douglas wrote a Columbia Law Review article stating that “a  
7 judge remembers above all else that it is the Constitution which he swore to support and defend,  
8 not the gloss which his predecessors may have put on it.”

9 The United States Constitution, and precedents about the Constitution, are not the same  
10 thing.  
11

## 12 VIII

### 13 NATURAL BORN CITIZEN

14 The United States government asserts that Defendant has multiple defenses to the  
15 Complaint. The first such defense is the Defendant’s birth certificate establishes that she “is a  
16 ‘natural born citizen’ within the meaning of the U.S. Constitution”. The birth certificate is NOT  
17 evidence of its assertion in any way, nor has it presented any evidence to support their claim. In  
18 addition, Defendant has never proved up that she is eligible to the Office of President or Vice  
19 President. Further, they have not presented any authority whatsoever for why the definitions put  
20 forth by the Supreme Court of the United State of American in the six cases cited in the verified  
21 complaint should be disregarded.  
22

## 23 IX

### 24 ARTICLE III STANDING

25 It is acknowledged that Plaintiffs have had their voting rights disenfranchised, diluted,  
26 oppressed, threatened, intimidated or otherwise injured when Defendant sought an office for  
27 which she is not eligible. It is argued that Plaintiffs have no greater stake in having the  
28

1 Constitutional provisions abided by than any other United States citizen, and therefore there is no  
2 standing for a cause of action for these Plaintiffs. That provision assumes that if all of the citizens  
3 are wronged, then there is no legal recourse and Defendant's actions are then somehow deemed to  
4 be proper. While Article III of the Constitution does not specifically address the issue of  
5 'standing', the fact is the laws of the United States provide protection for such voting rights. See,  
6 but not limited to, the following sections 18 USC §§ 241, 242, 245 and 594; 28 USC § 1343; and  
7 42 USC § 1985. Specifically 18 USC § 245 (b)(1)(A) provides protection for:  
8

9 "voting or qualifying to vote, qualifying or campaigning as a candidate for elective office,  
10 or qualifying or acting as a poll watcher, or any legally authorized election official, in any  
11 primary, special, or general election;"

12 As to the intimidation of voters 18 USC § 594 provides

13 "Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any  
14 other person for the purpose of interfering with the right of such other person to vote or to  
15 vote as he may choose, or of causing such other person to vote for, or not to vote for, any  
16 candidate for the office of President, Vice President, Presidential elector, Member of  
17 the Senate, Member of the House of Representatives, Delegate from the District of  
18 Columbia, or Resident Commissioner, at any election held solely or in part for the purpose  
19 of electing such candidate, shall be fined under this title or imprisoned not more than one  
20 year, or both."

21 This Court expressly has jurisdiction over such civil rights and elective franchise under 28 USC .§  
22 1343 which provides as follows:

23 "(a)The **district courts shall have original jurisdiction** of any civil action authorized by  
24 law to be commenced by any person:

- 25 (1) To recover damages for injury to his person or property, or because of the  
26 deprivation of any right or privilege of a citizen of the United States, by any act  
27 done in furtherance of any conspiracy mentioned in section 1985 of Title 42;
- 28 (2) To recover damages from any person who fails to prevent or to aid in  
preventing any wrongs mentioned in section 1985 of Title 42 which he had  
knowledge were about to occur and power to prevent;" (emphasis added)

As such the individual Plaintiffs have standing in this action.

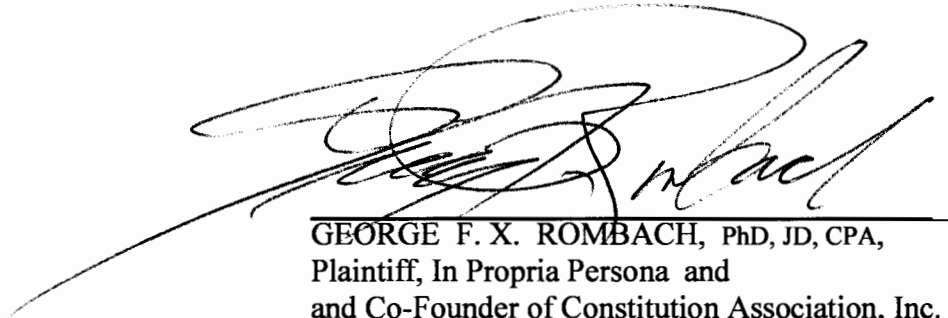
1 Separate from the individual Plaintiffs, Constitution Association , Inc. has separate and  
2 distinct damages from individual citizens which are for resources waisted because of Defendant  
3 Harris conduct and had been totally omitted under the *Ex Parte* application.

4  
5  
6 X

7 **CONCLUSION**

8 The United States of America is not a party in this action and has no standing in it, and on  
9 that basis alone its *Ex Parte* Application should be disregarded. Plaintiffs have addressed the  
10 issues raised in the Application and demonstrated them to be without merit. Accordingly,  
11 Plaintiffs respectfully request that the Court sustain the default and find that there is good cause  
12 for the action.

13  
14  
15  
16 Executed on June 10, 2021, at Temecula, California in amendment of the original  
17 Response to the *Ex Parte* Application on June 3, 2021

18  
19  
20  
21  
22   
23 GEORGE F. X. ROMBACH, PhD, JD, CPA,  
24 Plaintiff, In Propria Persona and  
25 and Co-Founder of Constitution Association, Inc.  
26  
27  
28



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4 (949) 500-1850  
5 gfxr@yahoo.com  
6 *Plaintiffs, In Propria Persona*

7  
8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
10  
11

12 CONSTITUTION ASSOCIATION, INC., by  
13 its founders, GEORGE F. X. ROMBACH  
14 and DOUGLAS V. GIBBS as well as other  
15 officers and members of the Association et. al.

16  
17 Plaintiffs,

18 vs.

19 KAMALA DEVI HARRIS,  
20 Defendant.  
21  
22

**Case No. 20CV2379 TWR BLM**

**DECLARATION OF SERVICE of the  
FIRST AMENDED  
RESPONSE TO THE EX PARTE APPLIC  
ATION and CAUSE WHY THIS ACTION  
SHOULD NOT BE DISMISSED**

Person Served:  
Defendant KAMALA DEVI HARRIS

Date Served: May 28, 2021

Judge: Hon. Todd W. Robinson

Department: Courtroom 3A

Complaint Filed: December 7, 2020

23 STATE OF CALIFORNIA )  
24 )  
25 COUNTY OF RIVERSIDE )

26 I, Beau Harley Watson, a private individual who resides and is employed in the County  
27 of Riverside, State of California, being duly sworn, depose and say:

28 I have been duly authorized to make service of the documents listed herein in the above

1 entitled case. I am over the age of eighteen years, and not a party to the within action or otherwise  
2  
3 interested in this matter.

4  
5 On June 10, 2021, I served the following pleading described as **FIRST AMENDED**  
6  
7 **RESPONSE**

8  
9  
10 **TO THE *EX PARTE* APPLICATION and CAUSE WHY THIS ACTION SHOULD NOT**  
11 **BE DISMISSED** by placing true copies thereof enclosed in a sealed envelope addressed to the  
12  
13 person(s) as follows:


14 Kamala Devi Harris  
15 The White House  
16 Office of the Vice President  
17 1600 Pennsylvania Avenue, NW  
18 Washington, DC 20500

19  
20 Randy S. Grossman,  
21 Acting United States Attorney  
22 Brett Norris  
23 Assistant U.S. Attorney  
24 Office of the U.S. Attorney  
25 880 Front Street, Room 6293  
26 San Diego, CA 92101  
27  
28

And by depositing same on that same day in a facility for the collection mail that is regularly maintained by United States Postal Service with postage thereon fully prepaid at Temecula, California. I am aware that on motion of a party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing affidavit.

I declare under penalty of perjury, under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on June 10, 2021, at Temecula, California

  
Beau Harley Watson,