

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

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

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VINZENZ J. KOLLER, an individual and
Presidential Elector,

Plaintiffs,

v.

JERRY BROWN, in his official capacity as
Governor for the State of California;
KAMALA HARRIS, in her official capacity
as Attorney General for the State of
California; ALEX PADILLA, 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

)

) **SUPPLEMENTAL**
) **DECLARATION OF VINZENZ J.**
) **KOLLER IN SUPPORT OF**
) **MOTION FOR TEMPORARY**
) **RESTRAINING ORDER AND**
) **PRELIMINARY INJUNCTION**

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1 I, Vinzenz J. Koller, declare as follows:

2 1. I am the Plaintiff in the above-captioned case, over the age of eighteen
3 years old, and have personal knowledge of the facts contained within the following
4 paragraphs, and could and would competently testify thereto under penalty of perjury
5 if called as a witness in a court of law.

6 2. I am a member of the Electoral College in California. We are due to
7 meet, deliberate, and cast our votes in the election of the President of the United
8 States of America on December 19, 2016. It is my understanding that under
9 California law, “[t]he electors chosen shall assemble at the State Capitol at 2 o’clock
10 in the afternoon on the first Monday after the second Wednesday in December next
11 following their election.” *California Election Code* § 6904. I will cast my vote at
12 that time.

13 3. Under the United States Constitution, I believe that my duty is to cast
14 my vote for the person whom I think will make the best President of the United
15 States. My view of my duty is informed by Alexander Hamilton’s writing in The
16 Federalist Paper No. 68, in which he worried that the general population might elect
17 a corrupt individual, particularly someone influenced by a foreign state, or someone
18 who is unfit to run the country. The former is covered by Article II, Section 1 of the
19 United States Constitution, while the latter is covered by Hamilton in Federalist No.
20 68. The concerns expressed in Federalist No. 68 inform my choice and compels me
21 to decide that Mitt Romney, John Kasich, or another qualified compromise
22 candidate, would be the correct choice for my vote as the President.

23 4. California law, however, provides that:

24 The electors, when convened, if both candidates are alive, shall vote
25 by ballot for that person for President and that person for Vice
26 President of the United States, who are, respectively, the candidates of
27 the political party which they represent, one of whom, at least, is not
28 an inhabitant of this state.

California Election Code § 6906 (emphasis added).

1 5. On November 8, 2016, a majority of the population in California voted
2 to elect Hillary Clinton as President. Accordingly, under *California Elections Code*
3 § 6906, I am required to vote for Hillary Clinton.

4 6. When I evaluate my duties under the United States Constitution, I think
5 it is my duty to vote for a compromise candidate instead of Hillary Clinton.

6 7. The criminal and civil penalties imposed by California law, however,
7 prevent me and others who are in the same position from fulfilling our duty under the
8 United States Constitution. As I understand it, *California Elections Code* § 18002
9 provides:

10 Every person charged with the performance of any duty under any law
11 of this state relating to elections, who willfully neglects or refuses to
12 perform it, or who, in his or her official capacity, knowingly and
13 fraudulently acts in contravention or violation of any of those laws, is,
14 unless a different punishment is prescribed by this code, punishable
15 by fine not exceeding one thousand dollars (1,000) or by
imprisonment in the state prison for 16 months or two or three years,
or by both.

16 8. I am unwilling to vote for Mitt Romney, John Kasich, or another qualified
17 compromise candidate instead of Hillary Clinton without the protection of a Court
18 order because to vote for a qualified compromise candidate would subject me to
19 irreparable harm, namely, a felony conviction under *California Elections Code*
20 § 18002, fine of \$1,000, and/or imprisonment for 16 months, or two to three years.

21 9. It is my understanding that a felony conviction would forever disqualify
22 me from voting in any election, prohibit me from sitting on a jury, ban me from the
23 ability to conduct business with the government, preclude me from the right to
24 possess a firearm, preclude me from ever holding a federal office, and result in many
25 other negative consequences personally, financially, socially, and professionally.

26 10. Accordingly, as the California law stands now, I will vote for Hillary
27 Clinton for President. If, however, a court were to strike down the penalties in
28

1 *California Elections Code* §§ 6906, 18002, then I would fulfill my duty under the
2 United States Constitution and vote for a compromise candidate for President.

3 11. In pleadings filed earlier, California Attorney General Kamala Harris
4 and California Secretary of State have not committed themselves to refraining from
5 prosecuting me if I vote for anyone other than Hillary Clinton on December 19,
6 2016. Furthermore, I cannot count on future Attorneys General to refrain from
7 prosecuting me unless there is a court order striking down these penalty provisions.

8 12. I renew my request for expedited hearing for the issuance of a
9 preliminary injunction protecting me from the threat of felony prosecution if I act in
10 a manner contrary to what I consider to be an unconstitutional and illegal statute.
11 This needs to be issued before the electors meet on December 19, 2016 to avoid
12 irreparable harm.

13
14 The foregoing is true and accurate to the best of my knowledge and is sworn
15 to under penalty of perjury of the laws of the State of California and the United
16 States.

17
18 Dated this 14th day of December 2016.

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20 By:



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Vinzenz J. Koller

Signature Certificate

Document Ref.: V6QH5-ZBI6W-LH2GJ-W6QE8

Document signed by:

	<p>Vinzenz J. Koller</p> <p>Verified E-mail: vinz.koller@me.com</p>	 
<p>IP: 216.2.60.98/32 Date: 15 Dec 2016 05:18:48 UTC</p>		

Document completed by all parties on:
15 Dec 2016 05:18:48 UTC

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Signed with PandaDoc.com

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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 Wednesday, December 14, 2016 I served the following documents:

**SUPPLEMENTAL DECLARATION OF VINZENZ J. KOLLER IN SUPPORT OF
PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

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 Wednesday, December 14, 2016, in San Diego, California.

/s/ Melody A. Kramer

Melody A. Kramer