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11
12 IN THE UNITED STATES DISTRICT COURT
13
14 SOUTHERN DISTRICT OF CALIFORNIA
15

16 DARRELL ISSA,

17
18 Plaintiff,

19 v.

20 SHIRLEY N. WEBER, in her
21 official capacity as Secretary of
22 State of California,

23 Defendant.
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Case No. 3:25-cv-00598-AGS-JLB

**CURTIS MORRISON'S REPLY
IN SUPPORT OF HIS MOTION
TO INTERVENE**

Hearing Date:
May 16, 2025, at 2:00 PM
COURTROOM 5C
HON. ANDREW G. SCHOPLER

INTRODUCTION

The opposition of Plaintiff Darrell Issa (“Rep. Issa”) to the intervention motion filed by CURTIS MORRISON (“Mr. Morrison”) rests on generally on the unhinged offensive idea that Rep. Issa has exclusive rights and privileges to litigate election law that are not afforded either to his constituents, or even to other similarly situated Congressional candidates. Rep. Issa wants the Court to adopt his view that he is special, and no one should stand in the way of what he wants.

To demonstrate just how special Rep. Issa thinks he is, a few days before filing his response, he posted an unhinged post on the social media platform X celebrating the recent arrest of a Wisconsin judge who allegedly presented an obstacle to the Trump administration, to which Rep. Issa is closely aligned, getting what it wants with the comment, “...and I look forward to the same in California.”¹ It is unclear from Rep. Issa’s post which California judge(s) he is looking forward to being arrested or whether his post was meant merely as a general warning or intimidation to all judges, but Mr. Morrison urges the Court to stand strong and reject Rep. Issa’s hypocritical position of his special status.

I. The Court Should Grant Mr. Morrison’s Request for Intervention as of Right.

A. Mr. Morrison Has A Significantly Protectable Interest.

First, Rep. Issa does not effectively address Mr. Morrison’s “current rights to have his own absentee ballot counted, should it be late-filed.” ECF No. 6-1 at 6. (emphasis added). Rep. Issa dismisses this interest by saying it “suffers the same flaws as CARA and LWV Movants’ voting members.” ECF No. 9 at 26. That is not true. The first alleged flaw Rep. Issa addresses with CARA and LWV Movants’

¹ X post by Rep. Issa dated April 26, 2025, available at: <https://x.com/repdarrellissa/status/1916148806585876792>.

1 voting members is the technicality that they asserted rights of members to cast votes,
2 as opposed to rights to have their votes counted. *Id.*²

3 Second, it is disrespectful to the Court that Rep. Issa argues “Mr. Morrison’s
4 interest as a candidate in the general election is entirely speculative,” and that “[i]t
5 depends on him qualifying for the primary ballot and winning the primary, or at least
6 finishing second.” ECF No. 9 at 9, (emphasis in original). Rep. Issa never explains
7 what causes him to believe the same issue would not apply to his own candidacy.
8 Neither Rep. Issa’s wealth, his place within President Trump’s inner circle, nor his
9 status as the incumbent officeholder excuses him from the same requirement that he
10 must also qualify for the primary ballot, win the primary, or at least finish second.
11 However, the Court would not know that from Rep. Issa’s complaint, where he asks
12 the Court to presume that he will be a candidate in the general election throughout.
13 Complaint, ECF No. 1, ¶¶ 10, 42, 59, 66, 71. Yet at the same time, unlike Mr.
14 Morrison, Rep. Issa may not be fully committed to running himself, alleging in his
15 complaint only that he “intends to run.” *Id.* at ¶¶ 10, 40.

16 Rep. Issa’s argument that Mr. Morrison argues he has “a right to be elected to
17 Congress.” is a mischaracterization achieved through an omission of content in a
18 quoted sentence, and a deviation from punctuation rules. ECF No. 9 at 8.³ The full
19 sentence quoted includes omitted context:

20 Further, Plaintiff seeks to deprive Proposed Intervenor-Defendant his
21 right to be elected to Congress, *should late-filed ballots be the deciding
22 ballots in the race, but remain uncounted as a result of the injunction
23 Plaintiff seeks.*

24 ² Further, CARA and LMV Movants plainly asserted the interest of their members to have their
25 votes counted. ECF No. 7-1 at 10, 23, (“CARA’s members will face a heightened risk of having
26 their mail ballots rejected” and “Vet Voice and CARA have an interest in swift resolution of this
27 action to ensure that their voters are able to cast a mail ballot and have that ballot counted.”).

28 ³ It would have been proper for Rep. Issa to note a comma or ellipses instead of a period to indicate
to the reader the quoted phrase was not the end of the sentence. The Blue Book: A Uniform System
of Citation: Rule R5.3 (b)(ii) at 79 (19th Edition)(“Where the *end* of a quoted sentence is being
omitted, insert an ellipsis between the last word being quoted and the final punctuation of the
sentence being quoted.)

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2 Mr. Morrison's Memo in Support, ECF No. 6-1, at 6, (emphasis added). In other
3 words, Mr. Morrison argues that he has the right to run for office, and should he win
4 that election by procuring the most counted votes, take the oath and assume office
5 pursuant to CAL. ELEC. CODE § 15503 and Art. I, § 4 of the U.S. Constitution.
6 Rep. Issa's litigation seeks to disrupt that possible outcome.

7 Further, Rep. Issa's suggestion that Mr. Morrison has not filed the required
8 paperwork to run and stand for office (ECF No. 9 at 9) is also a mischaracterization.
9 Mr. Morrison's campaign has filed the same FEC Form 2, Statement of Candidacy
10 with the Federal Election Commission to register him as a candidate that Rep. Issa's
11 campaign has filed, and further, Mr. Morrison made his filing a month prior to Rep.
12 Issa's response.⁴ Further, Rep. Issa's specific inference that Mr. Morrison may not
13 have complied with a California requirement to qualify and appear on the ballot for
14 the California primary is a bad faith argument because Rep. Issa knows full well that
15 there are no such requirements in a federal race 14 months prior to the California
16 primary (and that's why he doesn't cite to such a requirement). See **Exhibit B**,
17 Elections Inquiry to California Secretary of State, ("Updated qualifications and
18 requirements for the June 2, 2026, Statewide Direct Primary Election will be
19 available later this year.").

20 In conclusion, Mr. Morrison's interest as a candidate is a significantly
21 protectable interest.

22 **B. Mr. Morrison's Interest is Impaired By This Litigation.**

23 In the memorandum in support of his motion, Mr. Morrison explained:

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27 ⁴ Mr. Morrison's FEC Form 2 (dated April 1, 2025): <https://docquery.fec.gov/cgi-bin/forms/H6CA48260/1883401/>.

28 Rep. Issa's FEC Form 2 (dated November 22, 2024): <https://docquery.fec.gov/cgi-bin/forms/H0CA48024/1849523/>.

1 if this Court grants a permanent injunction prohibiting Defendant
2 Weber from implementing and enforcing the relevant parts of
3 California law, including CAL. ELEC. CODE § 3020, the clock will
4 still tick and the 2026 election will still happen, but the only votes
5 counted will be the votes Plaintiff Issa prefers to be counted. Absent
6 Proposed Intervenor Defendant's intervention as a party in this action,
7 his arguments, and his assertions of rights may not be included in this
8 Court's consideration.

9 ECF No. 6-1, at 7. To this, Rep. Issa suggests that Mr. Morrison has "other means"
10 to protect his interest in the form of another action brought under 42 U.S.C. § 1983
11 for violations of Mr. Morrison's right to stand for office. ECF No. 9 at 10. While
12 true that Mr. Morrison could bring that action, and unlike Rep. Issa, even has a
13 stronger tie to the venue, being as he is domiciled in Fallbrook, California, within
14 the district,⁵ the Court's Clerk would likely consider that new action a related case
15 to this one as it clearly would "[c]all for determination of the same or substantially
16 identical questions of law..." and thus report it to this Court for assignment. Local
17 Civil Rule 40.1(e) and (h). It is difficult to contemplate a scenario where judicial
18 efficiency could be served by bifurcating arguments on the same legal issues, into
19 separate actions with individual parties likely assigned to the same U.S. District
20 Court Judge.

21 In conclusion, Mr. Morrison's interest is impaired by this litigation, and Mr.
22 Morrison attempting to protect that interest in a separate lawsuit is absurd.

23 **C. Secretary Weber Cannot Adequately Defend Mr. Morrison's**
24 **Interests.**

25 **i. The Presumption of Adequacy Does Not Apply.**

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28 ⁵ Rep. Issa fails to allege the proper venue in this District is based upon his own domicile within
the District. Complaint, ECF No. 1 at ¶ 9.

1 Rep. Issa is acting like there is no case law to support the presumption of
2 adequacy with intervenors in a challenge like this is just nutty. Rep. Issa was the
3 plaintiff in the case on point demonstrating why he is now wrong. *Issa v. Newsom*,
4 No. 2:20-cv-01044-MCE-CKD, 2020 U.S. Dist. LEXIS 102013, at *10 (E.D. Cal.
5 June 10, 2020)(“While Defendants' arguments turn on their inherent authority as
6 state executives and their responsibility to properly administer election laws, the
7 Proposed Intervenors are concerned with ensuring their party members and the
8 voters they represent have the opportunity to vote in the upcoming federal election,
9 advancing their overall electoral prospects, and allocating their limited resources to
10 inform voters about the election procedures.”). Here, like in *Issa*, Secretary Weber’s
11 arguments will turn on her responsibility to administer election laws, where Mr.
12 Morrison’s interest is concerned with his ability to have his own ballot counted, if
13 late-filed, and his interest as a Congressional candidate in having late-filed ballots
14 cast for him counted. The presumption of adequacy does not apply.

15 Mr. Morrison regrets failing to attach a responsive “pleading that sets out the
16 claim or defense for which intervention is sought,” as required under Fed. R. Civ. P.
17 24(c), and attaches that proposed pleading hereto as **Exhibit A**. However, Mr.
18 Morrison reserves the right to file a motion to dismiss Rep. Issa’s complaint
19 according to the schedule entered by this Court if intervention is granted. To the
20 extent Rep. Issa finds the content of Mr. Morrison’s proposed pleading would
21 necessitate a supplement of Rep. Issa’s response in opposition, Mr. Morrison has no
22 opposition.

23 **ii. Mr. Morrison Has Demonstrated Inadequacy of**
24 **Representation Under the Default Standard.**
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26 Rep. Issa argues Mr. Morrison does not demonstrate that representation of his
27 interest by Secretary Weber may be inadequate, in part, because he “has shown no
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1 evidence that Secretary Weber is not capable of making these arguments or
2 defending his interest in the 48th Congressional District.” ECF 9 at 14.

3 Whether or not Secretary Weber is capable of making Mr. Morrison’s
4 arguments is not relevant if she is unwilling to make them. As Mr. Morrison noted
5 in his motion, he may challenge the venue of this action as being improper, which is
6 just one argument that Secretary Weber may be unwilling to make. Of note, other
7 potential intervenors have not raised this affirmative defense in their proposed
8 answers, so it would be even less appropriate to presume Secretary Weber would
9 raise it. ECF Nos. 7-4 at 9, 8-3 at 8.

10 Further, while Mr. Morrison does not oppose the request, Secretary Weber’s
11 counsel seeking to attend the forthcoming hearing remotely, also weighs in favor of
12 the Court finding inadequacy of counsel under the default standard. ECF No. 18.

13 **II. The Court Should Grant Movants’ Request for Permissive**
14 **Intervention.**

15 Rep. Issa’s arguments against Mr. Morrison’s request for permissive
16 intervention are desperate mischaracterizations. First, Rep. Issa argues that Mr.
17 Morrison’s stated concern was his “rights to run as candidate for office...” However,
18 Mr. Morrison was clear in his motion that his concerns are that his own absentee
19 vote be counted, should it be late-filed, and the late-filed absentee ballots lawfully
20 cast by his supporters be counted. ECF No. 6-1 at 3, 6.

21 Second, Rep. Issa speculatively argues Mr. Morrison would merely underline
22 issues of law raised by the primary parties, when Secretary Weber has yet to even
23 raise any issue of law. ECF No. 9 at 19. He does not know what Secretary Weber is
24 going to argue, any more than he knows Mr. Morrison will make the same arguments.
25 Also, to Rep. Issa’s suggestion that he raises purely legal claims, Mr. Morrison’s
26 proposed answer, attached as **Exhibit A**, and the proposed answers from other
27 intervenors (found at ECF. Nos. 7-4, 8-3), suggest that there are substantive disputes
28 of fact here as well. For example, while Rep. Issa alleges “Counting ballots received

1 after Election Day injures Plaintiff,” Mr. Morrison avers “that counting mail ballots
2 does not injure congressional candidates.” ECF No. 1 at ¶ 44; Ex. A, ¶ 44.

3 Third, Rep. Issa warns against the risk of a Donnybrook Fair. Mr. Morrison
4 had to look that up. Turns out that reference first came up in a patent case party
5 where intervention was granted even though the court recognized the risk of the
6 Donnybrook Fair, but also acknowledged “[b]ut against the considerations of
7 orderliness and dispatch other factors must be weighed,” and that “judges must be
8 willing to hear from more than the conventional parties in an adversary procedure,”
9 in part as “to frame decrees suited to the character of the many dimensions of the
10 problem revealed.” *Crosby Steam Gage & Valve Co. v. Manning, Maxwell & Moore,*
11 *Inc.*, 51 F. Supp. 972, 974 (D. Mass. 1943). Here, like in *Crosby*, Mr. Morrison, as
12 both a voter in the 48th Congressional District and a candidate for Congress in the
13 48th Congressional District, brings perspectives that are not otherwise represented
14 by Secretary Weber.

15 Rep. Issa also complains about how, in the 2024 primary, he had to face five
16 competing candidates, and four of those were Democratic Party candidates. ECF No.
17 9 at 20. While to Rep. Issa, that may have seemed like a real Donnybrook Fair, to
18 the rest of us, that’s democracy. It is not a serious argument for denying permissive
19 intervention in this lawsuit.

20 In conclusion, the Court should grant Mr. Morrison’s request for permissive
21 intervention.

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23 Date: May 7, 2025

24 /s/ Curtis Lee Morrison

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CERTIFICATE OF SERVICE

On the below date, I electronically filed the CURTIS MORRISON'S
REPLY IN SUPPORT OF HIS MOTION TO INTERVENE with the Clerk of the
United States District Court for the Southern District of California, using the
CM/ECF System.

The Courts CM/ECF System will send an electronically email all
noticed parties to the action who are registered with the Court's CM/ECF System.

Dated: May 7, 2025

/s/ Curtis Lee Morrison

Curtis Lee Morrison
Attorney for Intervenor Defendant