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Michael Wear Pro-per

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF TRINITY**

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| Michael Wear,  Plaintiff,  vs.  SHANNA WHITE,  Defendant | Case No.: [Number]  VERIFIED STATEMENT OF ELECTION CONTEST |

**TO THE COUNTY CLERK, COUNTY OF TRINITY:**

Contestant, Michael Wear, files this Statement of Election Contest and alleges:

1. Michael Wear, Contestant, is, and at all times mentioned herein was, an elector of, TRINITY County, State of California, at the consolidated election held on November 28, 2017
2. Shanna White, Defendant, was the Trinity County Registrar of Voters appointed by the County as the County's chief elections officer.
3. Defendant(s) are responsible for enforcing and complying with the Elections Code, training staff and poll workers, ensuring the security and transparency of the election process, tabulation of ballots, and certification of elections results to the Secretary of State.
4. The certification of an election is a statement that the election complied with all applicable laws and regulations, and that the results of the election are true and correct and accurately reflect the will of the people.
5. This statement of election contest is filed pursuant to section 16400 and 16460, within thirty days of the official canvass date, pursuant to Elections Code section 16401(d), on the grounds that mistake, error or misconduct has occurred in the counting of the ballots in the election which were so incorrectly counted as to change the result of the election, to wit,
6. Defendant, has certified said election held on November 7, 2017, as per Trinity County Elections Website on November 17, 2017 (Exhibit A, B).
7. Defendant placed on the ballot a fraudulent Proposition 39 bond election ordered by the Mountain Valley Unified School District on June 14, 2017. Instead of rejecting the election order for the November 7, 2017 election, Defendant, the appointed county clerk and elections official, proceeded to hold the election at which the only item on the ballot for district voters was Measure J, a $5,950,000.00 bond. The legislature specifically restricted when an election for the low voter threshold (55%) bonds may be held.
8. According to the California Education Code, which governs Proposition 39 bond measure elections, a governing board may only order an election for Proposition 39 bonds at a state-wide election or when there is already a regularly scheduled local election where all the district's voters are participating.Proposition 39 bond elections impose a direct tax on all residential and business property owners in a district. The tax is secured by the all the taxable property in the district, in the same way as repayment of a mortgage note is secured by the property. The law exists to protect district taxpayers by prohibiting low-voter-threshold (55%) bond measures at an election where the bond measures are the only items on the ballot. The restriction is intended to prevent a stealth election where the voters won't even realize there's an election going on.
9. In the case of Mountain Valley District, there was no other election on the ballot on November 7th, 2017.
10. Mountain Valley trustees adopted the election order, written by the district's bound counsel, on June 14th, 2017, then held onto it for more than a month before filing it with Defendant. This is a typical tactic to keep the public in the dark about these taxes. Bond counsel, district staff, and the school board, in a further effort to prevent transparency, did not cite the governing board's legal authority to order the election in the resolution.
11. The registrar of voters has a duty to qualify candidates and measures for the ballot. It's not clear whether or not Defendant was ignorant of the law or simply ignored it.
12. Margaret E. Long, County Counsel, is required by the Election Code to write an Impartial Analysis for each bond measure. The Impartial Analysis addressed the law, but ignored or missed the prohibition. The Board of Supervisors also failed to stop it, when they "consolidated" the special bond election with nothing, a violation of Election Code 10400.
13. The campaign materials were deceptive. The mold issue, which allegedly was the impetus for the bond measure, had already been funded through $5,000,000 in certificates of participation which had been approved in April and sold in August. The district's "fact" sheet misled voters that mold at the high school, which was only discovered two months after the governing board ordered the bond election, was one of the reasons for the bond.
14. In the case of Mountain Valley, the financial advisor also did a campaign survey. The results of that survey were used to formulate the 75-word question which the voters considered. According to Attorney General Opinion 13-304, issued on January 26, 2016, Kamala Harris concluded that that practice was a criminal violation of Education Code 7054.
15. The bond authorization was the maximum amount the district could ask for under Proposition 39 rules -- $60 per $100,000 of assessed value. The measure would cost taxpayers at least $11,621,300 in new taxes. The cost of the certificates of participation adds to that an estimated $10,000,000 which the district will have to pay from its general fund.
16. Universal Citation: CA Elec Code § 18002 (through 2012 Legislative Session) Every person charged with the performance of any duty under any law of this state relating to elections, who willfully neglects or refuses to perform it, or who, in his or her official capacity, knowingly and fraudulently acts in contravention or violation of any of those laws, is, unless a different punishment is prescribed by this code, punishable by fine not exceeding one thousand dollars ($1,000) or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years, or by both that fine and imprisonment.
17. Before preparing a voting machine for any general election, the elections official shall mail written notice to the chairperson of the county central committee of at least two of the principal political parties, stating the time and place where machines will be prepared.  At the specified time one representative of each of the political parties shall be afforded an opportunity to see that the machines are in proper condition for use in the election.
18. The party representatives shall be sworn to perform faithfully their duties but shall not interfere with the officials or assume any of their duties.  When a machine has been so examined by the representatives, it shall be sealed with a numbered metal seal.  The representatives shall certify to the number of the machines, whether all of the counters are set at zero (000), and the number registered on the protective counter and on the seal.
19. Defendant did not notify the chairperson of the county central committee of at least two of the principal political parties, stating the time and place where machines will be prepared.  Nor did Defendant notify the specified time one representative of each of the political parties shall be afforded an opportunity to see that the machines are in proper condition for use in the election. No observation as stated above was permitted to any aforementioned or public party.

**VIOLATION OF** **AMERICANS WITH DISABILITIES ACT**

Title II: State and Local Government Activities covers all activities of State and local governments regardless of the government entity’s size or receipt of Federal funding. Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities (e.g; public education, employment, transportation, recreation, health care, social services, courts, voting, and town meetings).

1. State and local governments are required to follow specific architectural standards in the new construction and alteration of their buildings. They also must relocate programs or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision, or speech disabilities. Public entities are not required to take actions that would result in undue financial and administrative burdens. They are required to make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination, unless they can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity being provided. Defendant Shanna White and her agents with prejudice against Petitioner violated his Americans With Disabilities Act Rights by not allowing sufficient access to observation and participation in the election process (Exhibits C, D).
2. Contestant alleges that the following ballots were not processed and counted, and should have been processed and counted:
3. “Vote-by-mail” and/or provisional ballots received by the Registrar of Voters were not processed and counted and should have been processed and counted in the contested election.
4. An unknown number of ballots, of qualified, “permanent vote-by-mail voters” were not processed and or counted.
5. That the precinct board in conducting the election or in canvassing the returns, made errors sufficient to change the result of the election as to any person who has been declared elected by denying adequate observation and right to list of vote-by mail ballots and provisional ballot electors in order to affect a challenge by the observers and representatives of candidates.
6. That there was an error in the vote-counting programs or summation of ballot counts due to changed programs of some voter machines before or after interrogating voter machines.
7. Elections Code DIVISION 18. PENAL PROVISIONS [18000 - 18700] CHAPTER 1. General Provisions Section 18002 Universal Citation: CA Elec Code § 18002 (through 2012 Leg Sess): Every person charged with the performance of any duty under any law of this state relating to elections, who willfully neglects or refuses to perform it, or who, in his or her official capacity, knowingly and fraudulently acts in contravention or violation of any of those laws, is, unless a different punishment is prescribed by this code, punishable by fine not exceeding one thousand dollars ($1,000) or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years, or by both that fine and imprisonment.
8. For the foregoing reasons, Contestant Michael Wear alleges that mistake, error or misconduct has occurred in the counting of the ballots in the election which were so incorrectly counted as to change the result of the election.

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DATED: November 29, 2017 Respectfully submitted,

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Michael Wear

**VERIFICATION**

SUPERIOR COURT OF STATE OF CALIFORNIA )

COUNTY OF TRINITY )

I am the contestant in this action. I have read the foregoing STATEMENT OF ELECTION CONTEST and know its contents. The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are therein stated on information and belief, and as to those matters I believe them to be true.

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

Executed this 29th Day of November 2017, at Weaverville, California.

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MICHAEL WEAR - PRO-PER