

FILED

2003 AUG 21 PM 8:30 JH.

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 FRANK PARTNOY, an individual;
12 LAURA ADAMS, an individual; PETER
13 STRIS, an individual; JASON WILSON,
14 an individual; and CALIFORNIA
INFORMED VOTERS GROUP, an
unincorporated association,

Plaintiffs,

15 vs.

16 KEVIN SHELLEY, in his official capacity
17 as Secretary of State for the State of
18 California; SALLY MCPHERSON, in her
19 official capacity as the Registrar of
20 Voters for the County of San Diego; and
21 CONNY MCCORMACK, in her official
capacity as the Registrar-Recorder/
County Clerk for the County of Los
Angeles,

Defendants.

CASE NO. 03CV1460 BTM (JFS)

AMENDED FINAL JUDGMENT OF
DECLARATORY AND INJUNCTIVE
RELIEF

22 For the reasons set forth in the Order and Memorandum Decision filed herewith, IT
23 IS HEREBY DECLARED, ORDERED, DECREED, and ADJUDGED as follows:

24 (1) Section 11382 of the California Elections Code violates the rights of Plaintiffs and
25 those of California voters under the First and Fourteenth Amendments of the United States
26 Constitution in that it disallows the counting of a vote for a successor to a recalled officer
27 unless the voter also cast a vote on the question of whether the present officer shall be
28 recalled.


1 (2) The provision of Section 11382 of the California Elections Code that disallows the
2 counting of a vote for a successor to a recalled Governor unless the voter also casts a vote
3 on the question of whether the present Governor shall be recalled abridges the Plaintiffs' and
4 California voters' rights under the First and Fourteenth Amendment and is unenforceable
5 and shall not be enforced in the upcoming recall election on October 7, 2003.

6 (3) The defendant registrars shall count and the Secretary of State shall certify any
7 vote by Plaintiffs or any other California voter who is otherwise properly registered and
8 entitled to vote on the election of a successor Governor whether or not such voter voted on
9 the question of the recall of the Governor.

10 (4) Defendants, as well as any individual, agency, or entity acting on their behalf or
11 pursuant to their authority with actual notice of this order, are permanently enjoined from (A)
12 enforcing in any manner and in any recall election conducted in the State of California the
13 provisions of California Elections Code § 11382, (B) preparing, approving, or disseminating
14 to any individual, agency or entity any ballots, sample ballots, voter instruction materials, or
15 other documents that state, in sum or substance, that a voter must cast a vote on the recall
16 for their vote for any successor candidate to be counted, or otherwise attempt to persuade
17 or inform voters that their vote on a successor candidate will not be counted unless they also
18 cast a vote for or against the recall; and (C) failing to count any ballot or vote based upon
19 any actual or alleged noncompliance with California Elections Code § 11382. The provisions
20 of this paragraph apply only to recall elections governed by Division 11 of the California
21 Elections Code. See California Elections Code, Section 11000.

22
23 **IT IS SO ORDERED.**

24 Dated: August 21, 2003


25 **HONORABLE BARRY TED MOSKOWITZ**
26 United States District Judge

27 Copies to:
All Parties and Counsel of Record

28