

01/29/2026

By: S. Woltmon Deputy

## SUPERIOR COURT OF THE STATE OF CALIFORNIA

## FOR THE COUNTY OF SACRAMENTO

JOEL GILBERT, Petitioner	)	CASE NO. 26WM000011
	)	
vs	)	PETITIONER'S REQUEST FOR
SHIRLEY N. WEBER, in her	)	EXPEDITED HEARING
capacity as California Secretary	)	
of State	)	(Election Law / Writ of Mandate)
Respondent	)	
	)	
and	)	
	)	
Eric Michael Swalwell	)	
Real Party in Interest	)	
	)	

**NOTICE OF REQUEST FOR EXPEDITED HEARING**

Petitioner Joel Gilbert respectfully requests that the Court, pursuant to its inherent authority to manage its calendar and ensure effective judicial relief, advance the currently scheduled hearing date of March 27, 2026, or in the alternative, order that this matter be heard and decided on an expedited basis prior to the June 2026 primary election, due to the time-sensitive nature of election administration and the irreparable harm that would result from delay. In fact, the deadline for the Secretary of State to certify candidates for the June 2026 Primary Election is one day before, on March 26, 2026.

The Court's clerk has provided a hearing date of March 27, 2026, subject to confirmation following meet-and-confer efforts. Petitioner has attempted in good faith to meet and confer regarding the hearing date, including contacting the Office of the Attorney General and the Office of the Secretary of State by telephone and email. No response has been received. Given the time-sensitive nature of this election-law matter and the inability to complete meet-and-confer through no fault of Petitioner, judicial intervention is necessary to confirm or advance the hearing date and ensure timely and effective relief.

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF REQUEST FOR EXPEDITED HEARING**

1 **I. INTRODUCTION**

2 This action seeks a writ of mandate compelling Respondent California Secretary of State to perform  
3 a ministerial, non-discretionary duty: to decline certification of a gubernatorial candidate who does  
4 not meet the constitutional qualifications for office and who has submitted materially false  
5 candidate filings under penalty of perjury.

6  
7 Although the Court has set a hearing date of March 27, 2026, the impending June 2026 primary  
8 election creates a narrow and unforgiving timeline. Absent expedited consideration, the Court risks  
9 being placed in the position of addressing candidate eligibility after ballots have been prepared or  
10 votes have been cast, at which point effective judicial relief becomes impracticable.

11 **II. ELECTION-LAW CASES REQUIRE PROMPT JUDICIAL RESOLUTION**

12 California courts have long recognized that election disputes are uniquely time-sensitive, and that  
13 delay itself can operate as a denial of effective relief once election machinery is set in motion.

14 California courts have repeatedly recognized that election-related disputes therefore require prompt  
15 judicial resolution. (See, e.g., *Berg v. Weber* (2001) 95 Cal.App.4th 163, 174 [election disputes  
16 must be resolved before ballots are finalized]; *Independent Energy Producers Assn. v. McPherson*  
17 (2006) 38 Cal.4th 1020, 1026.)

18  
19 Here, Petitioner does not seek to overturn votes or disrupt an election already underway. To the  
20 contrary, Petitioner seeks prospective relief only, before ballots are finalized, in order to preserve  
21 the integrity of the electoral process and ensure that voters are presented with a lawful ballot.

22 Expedited review is particularly appropriate where, as here:

- 23
- 24 • The relief sought is a writ of mandate under Code of Civil Procedure § 1085;
  - 25 • The Secretary of State’s duty is alleged to be ministerial and mandatory, not discretionary;
  - 26 • The core facts are documentary and undisputed (publicly recorded deeds, sworn candidate  
27 filings);
- 28

- Delay risks placing the Court in a posture where effective relief is either impracticable or institutionally disfavored.

### **III. THE JUNE 2026 PRIMARY CREATES A PRACTICAL DEADLINE**

Critically, the Secretary of State’s statutory deadline to certify candidates for the June 2026 Primary Election occurs on March 26, 2026 - one day before the currently scheduled hearing date of March 27, 2026 - rendering the existing date insufficient to afford effective judicial relief absent expedition.

Although the November 2026 general election remains months away, the June 2026 primary represents a critical inflection point in the State’s ballot-preparation and certification process.

If an allegedly ineligible candidate appears on the primary ballot:

- Voters may cast votes in reliance on that appearance;
- Campaign resources and public funds may be expended;
- The Court may later be confronted with arguments that relief is barred by laches, reliance, or election disruption concerns.

Courts routinely seek to avoid such dilemmas by resolving candidate-qualification disputes before the primary, when judicial intervention is least disruptive and most effective.

Petitioner’s First Amended Petition expressly alleges that:

“Once ballot preparation or certification deadlines pass, no post-hoc judicial remedy can restore a lawful ballot.”

Expedited consideration ensures that the Court retains full remedial authority and avoids being forced into an all-or-nothing posture later in the election cycle.

### **IV. EXPEDITION PROMOTES JUDICIAL ECONOMY AND FAIRNESS TO ALL PARTIES**

1 Granting expedited consideration would not prejudice Respondents or the Real Party in Interest; to  
2 the contrary, expedition promotes judicial economy and fairness to all parties:

- 3 • All parties benefit from early clarity regarding candidate eligibility;
- 4 • The Secretary of State benefits from definitive guidance before certification decisions must
- 5 be made;
- 6 • The electorate benefits from confidence that constitutional qualifications are enforced in a
- 7 timely manner.
- 8

9 Early resolution of this threshold legal issue would materially conserve judicial resources and avoid  
10 the need for emergency proceedings later in the election cycle.

11  
12 Conversely, delay increases the risk of piecemeal litigation, emergency motions, or last-minute  
13 appeals — outcomes that burden courts and undermine public confidence in the election process.

14 **V. ALTERNATIVELY, THE COURT MAY ISSUE A PEREMPTORY OR PRELIMINARY**  
15 **DETERMINATION OF THE THRESHOLD LEGAL ISSUE**

16 Even if the Court declines to advance the hearing date, this matter is well suited for early resolution  
17 of a threshold legal issue whose determination could materially advance—or entirely resolve—the  
18 case. The threshold legal issue presented is ripe for determination now, independent of downstream  
19 factual or remedial considerations. Early determination of this issue would avoid the risk that  
20 impending election deadlines constrain the Court’s remedial discretion.

21  
22 Petitioner alleges that Respondent Secretary of State has a ministerial, non-discretionary duty to  
23 enforce constitutional candidate qualifications and to reject materially false qualification filings  
24 submitted under penalty of perjury. This legal question does not require discovery, credibility  
25 determinations, or fact-intensive proceedings, and is capable of resolution based on the pleadings  
26 and judicially noticeable documents.

27 Accordingly, the Court may, in its discretion:  
28

1. Issue a peremptory writ in the first instance pursuant to Code of Civil Procedure § 1088; or
2. Issue an alternative writ identifying the dispositive legal issue and directing Respondent to show cause why relief should not issue.

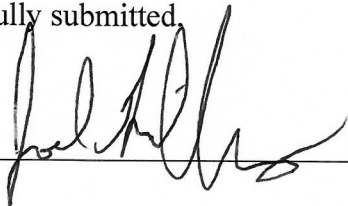
Such an approach would preserve the Court's full remedial authority, provide timely guidance to election officials, and avoid the risk that impending election deadlines render effective relief impracticable.

#### **VI. REQUESTED RELIEF**

For the foregoing reasons, Petitioner respectfully requests that the Court:

1. Advance the hearing date currently set for March 27, 2026; or
2. In the alternative, order that this matter be heard and decided on an expedited basis prior to the June 2026 primary election; and
3. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,



JOEL GILBERT

Petitioner, Pro Se

Dated: January 29, 2026