

SUPREME COURT COPY

Case No. S257302

**SUPREME COURT
FILED**

SEP 16 2019

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

Jorge Navarrete Clerk

Deputy

**JESSICA MILLAN PATTERSON
And
CALIFORNIA REPUBLICAN PARTY**

Petitioners,

v.

**ALEX PADILLA,
California Secretary of State, In His Official Capacity**

Respondent.

**PETITIONERS' OBJECTION AND REPLY TO *AMICUS CURIAE*
OF DEAN ERWIN CHEMERINSKY**

**IMMEDIATE STAY REQUESTED
IMMEDIATE RELIEF REQUESTED – NO LATER THAN
NOVEMBER 4, 2019**

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Attorneys for Petitioners **JESSICA MILLAN PATTERSON
And CALIFORNIA REPUBLICAN PART**

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Telephone: (916) 442-7757
Attorneys for Petitioners JESSICA MILLAN PATTERSON
And CALIFORNIA REPUBLICAN PART

I. INTRODUCTION

Petitioners object and respond to the *amicus curiae* brief of Dean Erwin Chemerinsky as follows:

II. ARGUMENT

A. The *Amicus* Brief was not timely served.

As indicated on the attached email to Petitioners' counsel, the *amicus curiae* brief of Dean Chemerinsky was served at 1:30 pm on Friday, September 13, 2019 (Petitioners' Exhibit EE). This Court's order to show cause issued on August 21, 2019 stated that "[a]ny application to file an *amicus curiae* brief and any *amicus curiae* brief may be *served and filed* on or before 12:00 noon on Friday, September 13, 2019." Thus, Petitioners object and oppose the Court's consideration of the brief on the basis that it was not timely served.

B. SB 27 does not implement the Constitution, it Conflicts with the Constitution.

The applicant's legal argument is not different than Respondent's and focuses almost exclusively on the fact that the Constitution "does not define what it means to be a 'recognized' candidate" and that SB 27 is within the Legislature's power to do so. (Applicant's brief at p. 13). SB 27 does not, and doesn't even pretend to, define for the Secretary of State who is a "recognized candidate." Nor could it. All it does, is "prohibit" the Secretary of State from otherwise placing a "recognized candidate" on the ballot, in direct contravention to the Constitution.

III. CONCLUSION

For the reasons stated *supra*, Applicants brief should be rejected as untimely.

Respectfully Submitted,

Dated: September 13, 2019

BELL, McANDREWS & HILTACHK, LLP

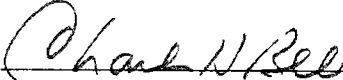
By: Charles H. Bell, Jr.
CHARLES H. BELL, JR.
THOMAS W. HILTACHK
TERRY J. MARTIN
*Attorneys for Petitioners, JESSICA MILLAN
PATTERSON and CALIFORNIA
REPUBLICAN PARTY*

CERTIFICATE OF COMPLIANCE

Counsel of Record hereby certifies that pursuant to Rule 8.204(c)(1) and 8.360(b)(1) of the California Rules of the Court, the enclosed brief of JESSICA MILLAN PATTERSON and CALIFORNIA REPUBLICAN PARTY is produced using 13-point Times New Roman type including footnotes and contain approximately 239 words, which is less than the total words permitted by the rules of the court. Counsel relies on the word count of the computer program, Microsoft Word 2010, used to prepare this brief.

Dated: September 13, 2019.

BELL, McANDREWS & HILTACHK, LLP

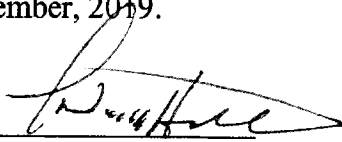
By: 
CHARLES H. BELL, JR.
THOMAS W. HILTACHK
TERRY J. MARTIN
Attorneys for Petitioners, JESSICA MILLAN
PATTERSON and CALIFORNIA
REPUBLICAN PARTY

I, Thomas W. Hiltachk, declare:

1. I am an attorney licensed to practice by the California State Bar, State Bar number 131215, and admitted to practice before this California Court. I make this declaration of my personal knowledge of the facts stated herein and could and would competently testify to them if called to do so.

2. Exhibit EE is a printed copy of an email I received from Malika Amaru at 1:30 p.m. on Friday, September 13, 2019, attaching the application and proposed amicus brief of Dean Erwin Chemerinsky.

3. I declare under penalty of perjury that the foregoing is true and correct, pursuant to the laws of the State of California. Executed at Sacramento, California this 13th day of September, 2019.

A handwritten signature in black ink, appearing to read "T. Hiltachk", is written over a horizontal line.

Thomas W. Hiltachk

EXHIBIT EE

Thomas Hiltachk

From: Malika Amaru <mamaru@bsflp.com>
Sent: Friday, September 13, 2019 1:30 PM
To: Charles H. Bell; Thomas Hiltachk; Terry Martin; Jay.Russell@doj.ca.gov; Paul.Stein@doj.ca.gov; Chad.Stegeman@doj.ca.gov; Anthony.Hakl@doj.ca.gov
Cc: Maxwell Pritt; Alex Holtzman; Kathleen Hartnett
Subject: Patterson, et al., v. Padilla | California Supreme Court | Case No. S257302
Attachments: 2019-09-13 App for LTF Amicus and Prop Brief.pdf; 2019-09-13 App for PHV Admission of D. Boies.pdf

Counsel,

Attached for service are electronic copies of the following documents, filed this afternoon with the California Supreme Court:

- **Application for Leave to File *Amicus Curiae* Brief of Dean Erwin Chemerinsky in Support of Respondent; Proposed *Amicus Curiae* Brief;** and
- **Application for *Pro Hac Vice* Admission of David Boies to Appear as Counsel for *Amicus Curiae* Dean Erwin Chemerinsky.**

Hard copies have been sent to your respective offices by U.S. Mail. Please let us know if you experience any difficulties accessing or receiving these documents.

Best,

Malika Amaru
Case Manager

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The information contained in this electronic message is confidential information intended only for the use of the named recipient(s) and may contain information that, among other protections, is the subject of attorney-client privilege, attorney work product or exempt from disclosure under applicable law. If the reader of this electronic message is not the named recipient, or the employee or agent responsible to deliver it to the named recipient, you are hereby notified that any dissemination, distribution, copying or other use of this communication is strictly prohibited and no privilege is waived. If you have received this communication in error, please immediately notify the sender by replying to this electronic message and then deleting this electronic message from your computer. [v. 1 08201831BSF]

PROOF OF SERVICE

Case S257302 Patterson, et al. v Padilla

I, the undersigned, declare under penalty of perjury that:

I am a citizen of the United States, over the age of 18, and not a party to the within cause of action. My electronic address is kmerina@bmhlaw.com

On September 13, 2019, I served the following:

**PETITIONERS' OBJECTION AND REPLY TO *AMICUS CURIAE*
OF DEAN ERWIN CHEMERINSKY**

on the following party(ies) in said action:

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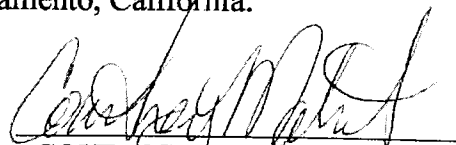
(415) 293-6800

mpritt@bsflp.com

aholtzman@bsflp.com

X BY ELECTRONIC MAIL: By causing true copy(ies) of PDF versions of said document(s) to be sent to the e-mail address of each party listed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 13, 2019, at Sacramento, California.


COURTNEY MAHRT