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10 Candidate for United States House of Representatives

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SACRAMENTO**
13 **UNLIMITED JURISDICTION**

14 STEPHEN R. JAFFE, Candidate for)
15 United States House of Representatives,)
16)
17 Petitioner and Plaintiff,)
18)
19 v.)
20)
21 CALIFORNIA DEMOCRATIC PARTY;)
22 and DOES 1 through 100, inclusive,)
23)
24 Defendants and)
25 Respondents.)
26)
27)
28)

Case No.

**VERIFIED PETITION FOR WRIT
OF MANDATE AND COMPLAINT
FOR INJUNCTIVE AND
DECLARATORY RELIEF**

**(California Elections Code Section
13314; California Code of Civil
Procedure sections 1085, 525 & 1060)**

***[PRIORITY MATTER PURSUANT TO
CALIFORNIA ELECTIONS CODE
SECTION 13314(a)(3)]***

1 the CDP has bolstered the unfortunate public perception that it is more interested in
2 protecting wealthy, powerful incumbents than in welcoming promising new candidates.

3
4 **Priority Matter**

5 5. Pursuant to Elections Code section 13314(a)(3), as an election law writ
6 petition, ***this matter shall have priority over all other civil matters. Time is of the***
7 ***essence in this proceeding because of CDPs' impending State Convention beginning on***
8 ***February 23, 2018.*** This matter is timely brought because on February 15, 2018, the
9 CDP made clear that it would be denying Jaffe a hearing on his February 13, 2018 appeal
10 until after the CDP State Convention, and Jaffe is filing this action only a few court days
11 after such denial.
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14 **Parties**

15 6. Petitioner and Plaintiff STEPHEN R. JAFFE is a resident of, and an elector
16 and voter duly registered in, the City and County of San Francisco, State of California,
17 and is authorized by California Elections Code section 13314 and Code of Civil
18 Procedure sections 525, 1060, and 1085 to bring this action. Jaffe is a candidate for
19 United States House of Representatives, in California's 12th Congressional District, in the
20 June 5, 2018 California primary election, and thus is beneficially interested in the
21 outcome of this matter.
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24 7. Respondent and Defendant CALIFORNIA DEMOCRATIC PARTY (aka
25 the Democratic Party of California pursuant to Part 2 of Division 7 of the California
26 Elections Code, and specifically Election Code section 7050) is a California political
27 party headquartered in the City of Sacramento, County of Sacramento, State of California,
28

1 with the ability to sue and be sued for its actions or inactions in connection with
2 candidates and others such as Jaffe. The true and correct capacities of Respondents and
3 Defendants DOES 1 through 100, and each of them, are unknown to Jaffe at this time,
4 and Jaffe therefore sues them bu fictitious names. Jaffe will file DOES amendments
5 and/or seek leave of Court to amend this Petition and Complaint to assert the true names
6 and capacities of these Respondents and Defendants when they have been ascertained.
7 Jaffe is informed and believes, and based thereon alleges, that each Respondent and
8 Defendant herein designated as a DOE was and is in some manner responsible for the
9 wrongdoing alleged herein.
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12 Jurisdiction

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14 8. This Court has jurisdiction over this matter pursuant to California Elections
15 Code section 13314 and Code of Civil Procedure sections 525, 1060, and 1085, et seq.
16

17 Venue

18 9. The proper venue for this action is the County of Sacramento, given that the
19 CDP is headquartered in Sacramento and the CDP's wrongful conduct occurred in
20 Sacramento.
21

22 STATEMENT OF FACTS

23 Jaffe Timely Challenged the Automatic Endorsement of Incumbent Pelosi

24 10. The CDP automatically endorses incumbent candidates such as Pelosi, who
25 are seeking reelection, by placing their names on the consent calendar for the Party's
26 endorsing convention. (CDP By-Laws, Article VIII, Section 3(g)(12).)
27
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1 11. In order to challenge the automatic endorsement of an incumbent such as
2 Pelosi and require an incumbent to undergo the CDP's regular endorsement process, a
3 challenger must acquire the signatures of twenty percent (20%) of Pre-Endorsing
4 Conference eligible voters for the district in which they are seeking office.
5

6 12. On or about January 2, 2018, Jaffe timely filed his 2018 Candidate
7 Registration Form with the CDP along with a \$350 filing fee. A true and correct copy of
8 the Form (with personal information such as Jaffe's credit card number redacted) is
9 attached hereto as Exhibit 1 and incorporated herein by this reference.
10

11 13. On or about January 5, 2018, the CDP staff provided Jaffe with the Pre-
12 Endorsing Conference Eligible Voter List for CA-12, which contained the names of 182
13 eligible voters (the "182-voter list"). The 182-voter list was transmitted to Jaffe along
14 with a disclaimer from the Party that the list was current "as of November 30, 2017, the
15 deadline to make changes to said list per CDP Rules. No additional changes may be
16 made to this list past that deadline." Jaffe reasonably relied on the 182-voter list in
17 calculating the twenty percent (20%) figure and gathering the needed signatures.
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20 14. Jaffe gathered the signatures of 41 voters whose names were listed
21 on the 182-voter list, four more than the 37 signatures necessary to reach the twenty
22 percent (20%) threshold.
23

24 15. On January 17, 2018, the day on which challenges to the automatic
25 endorsement of incumbents such as Pelosi were due pursuant to the CDP rules, Jaffe
26 submitted the 41 signatures on a petition to the CDP challenging Pelosi's automatic
27 endorsement.
28

1 **The CDP Staff Rejected Jaffe’s Challenge Based on an Unjustified**
2 **Rejection of Voter Signatures and an Undisclosed Voter List**

3 16. On January 19, 2018, Clark Lee, the CDP’s Political Director, and
4 Kasey Wolukones, the CDP’s Deputy Political Director, issued a memorandum (the
5 “Memorandum”) in which they concluded that only 36 of the 41 signatures Jaffe
6 submitted were verified and that therefore Jaffe’s challenge of Pelosi’s automatic
7 endorsement had failed.
8

9 17. Among the signatures that were rejected was that of Niloy Mukherjee, a
10 bona fide resident of the 12th Congressional District eligible to sign the petition at the
11 time he signed. The CDP provided no explanation for the rejection of Mr. Mukherjee’s
12 signature or any others.
13

14 18. The Memorandum stated that 38 (not 37) signatures were necessary for
15 Jaffe to reach the twenty percent (20%) threshold required by the CDP By-Laws, and
16 indicated that the CDP was basing the threshold on a 190-voter list (the “190-voter list”)
17 that had never been made available to Jaffe, rather than the 182-voter list.
18

19 **The CDP Denied Jaffe an Opportunity to Speak at the Hearing**
20 **Regarding His Challenge of the Rejection of His Petition**

21 19. On January 22, 2018, Jaffe submitted a challenge to the CDP’s rejection of
22 his petition to challenge Pelosi’s automatic endorsement. On January 29, 2018, Jaffe
23 submitted a supplemental statement in support of his challenge. A true and correct copy
24 of Jaffe’s challenge and supplemental statement is attached hereto as Exhibit 2 and
25 incorporated herein by this reference.
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1 20. On February 7, 2018, the CDP’s Compliance Review Commission (the
2 “CRC”) held a telephonic “hearing” to address Jaffe’s challenge. The CRC refused
3 Jaffe’s request to speak and at this hearing and refused his offer to answer questions.
4

5 21. During the hearing, an inquiry was made by a CRC member as to when the
6 190-voter list, upon which the CDP based its signature threshold, became available. It
7 was determined that the 190-voter list did not come into existence until as late as January
8 17, 2018, the **same date** on which challenge petitions were due. No list containing 190
9 voters was ever provided to Jaffe at any time prior to the January 17, 2018 due date.
10

11 22. On February 12, 2018, the CRC issued a written decision upholding
12 the CDP staff’s rejection of Jaffe’s challenge to the automatic endorsement of Pelosi. In
13 its decision, the CRC inaccurately speculates that Jaffe “clearly knew” of the new 190-
14 voter list because his petition contained the signatures of three eligible voters who did not
15 appear on the 182-voter list. In fact, Jaffe acquired the signatures of these voters by
16 asking for the signatures of eligible voters and these three voters volunteered their
17 signatures. Had Jaffe been given the opportunity to speak at the CRC hearing, Jaffe could
18 have offered this clarification. A true and correct copy of the CRC’s Decision is attached
19 hereto as Exhibit 3 and incorporated herein by this reference.
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23 **The CDP’s Timeline for Hearing Jaffe’s Appeal of the CRC Decision Will**
24 **Ensure That a Final Decision is Not Made Until After the CDP Convention**

25 23. On February 13, 2018, through counsel, Jaffe submitted to the CDP an
26 appeal of the CRC’s decision. A true and correct copy of the appeal is attached hereto as
27 Exhibit 4 and incorporated herein by this reference.
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1 Code Civ. Proc. section 1094.5(b); Clark v. City of Hermosa Beach, (1996) 48 Cal. App.
2 4th 1152, 1170.)
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4 28. While in some ways a political party is a private organization, actions taken
5 by political parties that can fairly be attributable to the state are subject to due process.
6 (Wilson v. San Luis Obispo County Democratic Central Committee (2009) 175 Cal. App.
7 4th 489, 499-500.) Party conventions are mechanisms provided for by state law. (See
8 Cal. Elec. Code sec. 20001(2).) Moreover, the CDP acts in a public capacity and uses
9 public resources when endorsing and nominating candidates for the United States House
10 of Representatives. Therefore, the CDP's actions in establishing voting processes for
11 endorsing conventions are subject to due process.
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15 **California Democratic Party By-Laws**

16 29. The CDP's By-Laws provide that the CDP's "endorsement process shall be
17 broadly and fairly representative of the various components of the Party." (CDP By-
18 Laws, Article VIII, Section 1(d).) To achieve this aim, the By-Laws provide that
19 incumbent candidates such as Pelosi shall not automatically receive the CDP's
20 endorsement if a petition is submitted to the CDP signed by twenty percent (20%) of
21 eligible Pre-Endorsing Conference participants for a given district. In such instances,
22 incumbent candidates such as Pelosi will be subject to the regular endorsement process,
23 along with the challenger. (CDP By-Laws, Art. VIII, Sec. 3(g)(12).)
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Code of Civil Procedure Section 1085

32. This Petition is also brought pursuant to Code of Civil Procedure section 1085, et seq. which provides, in relevant part, that “A writ of mandate may be issued by any court to any ... person, to compel the performance of an act which the law specifically enjoins, as a duty resulting from an office”

Code of Civil Procedure Section 1086

33. Code of Civil Procedure section 1086 provides, in relevant part, that “[t]he writ must be issued in all cases where there is not a plain, speedy, and adequate remedy, in the ordinary course of law. It must be issued upon the verified petition of the party beneficially interested.”

34. Jaffe does not have a plain, speedy or adequate remedy in the ordinary course of law, especially insofar as the timeline CDP has provided to consider Jaffe’s challenge of the automatic endorsement of Pelosi will not allow for a final decision to be made until after CDP’s endorsing convention.

Equitable Relief is Appropriate and Justified

35. The issuance of the requested writ of mandate will not substantially interfere with the conduct of the election insofar as there is sufficient time for the parties to brief the matter and for oral argument to be held and a trial court decision rendered prior to the commencement of CDP’s endorsing convention on February 23, 2018.

36. Should the requested writ not issue, irreparable harm will occur in that Jaffe’s name will not appear on the ballot for endorsement for House of Representatives for CA-12.

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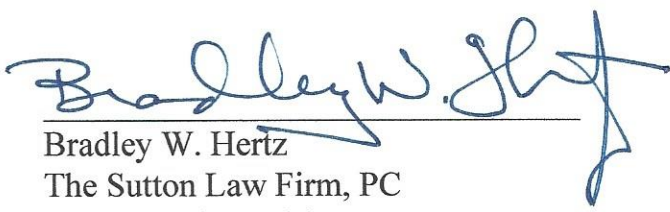
On all Causes of Action:

4. That the court award Jaffe costs, including reasonable attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, as permitted to be recovered from the CDP; and

5. That this court grant such other and further relief as may be just and proper.

Respectfully Submitted:

Dated: February 20, 2018

By: 
Bradley W. Hertz
The Sutton Law Firm, PC
Attorneys for Petitioner
STEPHEN R. JAFFE, Candidate for
United States House of Representatives