

1 Jay Blas Jacob Cabrera
2 705 Alvarado Row
3 Stanford CA, 94305
4 (831) 332-2486
5 In Pro Persona

6 **SUPERIOR COURT OF CALIFORNIA, SANTA CLARA COUNTY**

7
8 JAY BLAS JACOB CABRERA) Case No. : 113CV245239
9 Plaintiff,)
10 vs.) REPLY MEMORANDUM OF
11) PLAINTIFF JAY BLAS JACOB
12 Santa Clara County Board of Registrar) CABRERA IN OPPOSITION
13 Santa Clara County Board of Supervisors) TO THIRD DEMURRER
14 County of Santa Clara)
15 Santa Clara County Registrar of Voters) May 27th, 2014 9am
16 Santa Clara Department of Revenue)
17 Defendants)
18 _____)

19 **INTRODUCTION**

20 The Plaintiff is respectfully requesting the Court to require the County to re-
21 calculate the cost they are billing the Plaintiff based on his indigent status and the
22 “actual” pro rata share established by Section 13309, and to stop the collections efforts
23 of the County. This should include established president that Section 13309 is the
24 applicable statute to protect the rights of the financially disabled class of indigents.

25 The Plaintiff Pleads to this court to not set any precedent for the future of our
26 democracy based on minor procedural issues brought up within the Defendants
27 demurrer, because the Plaintiff can and has shown in his Complaint and in this Opening
28 Demurrer Reply that the minor procedural arguments and confusion brought by the

1 defendants do not rid them of responsibility and liability to conduct fair elections in
2 regards to this case, and all future indigents with rights protected in Section 13309.

3 The foundation of the Defendants demurrer, which has been repeated over and
4 over, is simply that they followed the law. They argue that the law allows them to
5 charge and force collections on the Plaintiff, the same as wealthy candidates, because
6 of Section 13307, which they have quoted repeatedly and are using incorrectly.

7 Although in a Demurrer the Plaintiff should not need to prove his case, the
8 Plaintiff will prove, using multiple methods, that the entire indigent process must be
9 carried out only pursuant to Section 13309. This includes being clearly stated within the
10 Elections Code that Section 13309 is "Notwithstanding Section 13307". The Defendants
11 also agreed within their own signed indigent status determination letter on 3/2/12,
12 included in the 1st Judicial Review 4/7/14, that the process was "pursuant to California
13 Elections Code section 13309" . Additionally the Defendants forced the Plaintiff to sign
14 agreements in the original application for indigent status, included in the 2nd Judicial
15 Review 5/9/14???(not turned in yet), which clearly state "as provided for in Elections
16 Code 13309" in bold letters across the top. Nowhere in any of these documents
17 presented by the Defendants before the election, or verbally, did they ever state that
18 Section 13307 was applicable to indigent bills or fees. Because the Defendants
19 presented the process pursuant to section 13309, and then are now arguing justification
20 under section 13307, that is the definition of misrepresentation, and this is only one of
21 the many Causes of Action that give the Plaintiff a right to go to trial.

22 Yet the core of this case is not about the Plaintiff, or about weather or not the
23 Plaintiff pays a ~\$6,000 bill that he couldn't regardless of this case. The core merits of
24 this case are about setting the future president for the poorest of poor running for office
25 in California, and their access to free speech during the elections process.

26 With Citizens United vs FEC (2010) and McCutcheon vs FEC (2014), the next
27 few generations of Americans will live in a world where the richest of the rich can give
28 unlimited money to pay someone else to run for office for them, all in the name of free

1 speech. The question at hand in this case, is the opposite. What about when
2 someone who has nothing, no money, no job, and wants to influence politics? They
3 can't pay someone else to do it for them, so they must run for office themselves. Do
4 they have any access to the the most basic level of free speech within an election? In
5 both cases referenced above, the Supreme Court ruled that "money" can not be a
6 limiting factor in "free speech". If this is true for the richest of the rich, then it should
7 also be true for the poorest of the poor, or the laws are not being applied equally. This
8 means that money, in this case, after an election, can not be a limiting factor in allowing
9 future indigent candidates from having access to free speech with their candidate
10 statement. No certified indigent candidate should ever be brought to the brink of
11 bankruptcy just for doing their civic duty as a public servant running for elected office.
12 What is so odd, is that California Law has already established protections, as provided
13 in Section 13309. The Defendants simply refuse to follow the existing law.

14 Although the Defendants say they are following the law, they are actually going
15 against the intention of the law, and further pushing this Court to set the precedent to
16 strip future free speech away from the Plaintiff and other indigent candidates, and
17 increase the financially crippled status of indigents. Is it justified for this Court to set the
18 president of gutting the legal protections for indigent candidates within section 13309,
19 by legislating from the bench to make Section 13307 the new applicable section for
20 indigent candidates, without even a trial?

21 President will be set, regardless of weather this case goes to trial. If the Court
22 sustains this demurrer based on section 13307, then Section 13309 will no longer be
23 able to protect the rights of indigents. Forever into the future Section 13309 will be
24 gutted of legal protections for financially crippled indigent candidates. Bills for wealthy
25 candidates, as well as certified indigents, will all be governed under Section 13307.

26 Is it right to continue to allow procedural arguments to prevent this case from
27 going to trial and hastily set future president that strips away the rights of indigents, or
28 should we take the time to seriously consider this issue and the president it sets for the

1 future of our democracy? The Plaintiff believes we should take the time needed to ask
2 what the current law says in regards to this issues, and how it should be interpreted in
3 regards to the public interest for the future of our democracy. No court case has ever
4 made a ruling on the issue of fees and billing for indigent candidates. The Plaintiff
5 pleads to this court, based on the legal merits of his arguments, to allow this case to go
6 to trial before considering to set such a precedent.

7 In a world that is increasingly going the direction of supporting electoral rights for
8 the richest of the rich, the time is now to set precedent for the poorest of the poor to also
9 have basic rights of free speech in our electoral democracy. The Plaintiff acknowledges
10 that his case may loose, but he has demonstrated the legal backing and arguments to
11 deserve a trial on the merits of the case, not have president being set within demurrer.
12 The Plaintiff Pleads to the Court to overrule this Demurrer to move this case to trial.

13

14 **PURPOSE OF A DEMURRER AND PLAINTIFFS FACTS & PLEADS**

15 In a demurrer hearing, the Court must accept the Plaintiffs facts, pleads,
16 allegations, and arguments as TRUE. The ruling for a demurrer is supposed to be
17 based on the merits of the case and weather or not it is possible for the Plaintiff to have
18 a legal case if any of the facts, pleads, or allegations are confirmed as true within trial.
19 A demurrer hearing is not supposed to require proof or any verification.

20 The Plaintiff has clearly alleged within the Second Amended Complaint on Page
21 4, as a matter of fact, that Section 13307 is NOT applicable to indigent candidates and
22 the Plaintiff pleads to the court to rule that only Section 13309 is applicable in this case.
23 The first three words of Section 13309 are more than enough to prove this fact;
24 “Notwithstanding Section 13307”, yet the Plaintiff has included substantially more proof
25 within this document. The Defendants are arguing within their Demurrer Memorandum
26 that there was no contract or agreement between the Plaintiff and the Defendant. First
27 of all within a demurrer hearing there is no need for the Plaintiff to prove that there was
28 a contract at all, as the Plaintiff has already alleged as fact that there were agreements

1 made between the parties, and therefore the Court must recognize that as factually
2 True. Yet because of the confusion, misrepresentation, and ambiguity that the
3 Defendants have been creating in this case, this has forced the Plaintiff to prove his
4 case within the demurrer hearing. The Plaintiff has included two of the many
5 documented agreements, letters, and contracts that were created over the course of the
6 indigent certification process within Judicial Notice referenced in this document.

7 Furthermore, the Plaintiff has clearly alleged within the Complaint that it is a fact
8 that Section 13309 establishes limits that the "elections official" and only the "elections
9 official", may "bill" and only "bill" indigent candidates. This is exactly what the statute
10 from California Elections Code Section 13309 states. Section 13309 clearly establishes
11 as matter of fact, that the elections official cannot legally force an indigent candidate into
12 required payments, demanded charges, or send an indigent candidates bill to the local
13 collections agency to initiate collections letters, collections phone calls, or consider
14 wage garnishment, or pushing liens on the Plaintiffs property, as the Defendants have
15 done. The Plaintiff Pleads to this court to recognize that Section 13309 protects and
16 give rights to the financially crippled class of indigents. Therefore within this demurrer
17 hearing, the Court must base the ruling on Section 13309 protecting indigent peoples.

18 The Plaintiff respectfully pleads and prays to this Court to focus on the merits of
19 the case, take the Plaintiffs arguments as True, and therefore overrule the demurrer and
20 allow this case to go to trial, and end the continuing stall tactics of the Defendants.

21
22 **DEFENDANTS MISREPRESENT THE ELECTIONS CODE IN THEIR MEMORANDUM**

23 On Page 1 line 23 of the Defendants Memorandum, the Defendants clearly state
24 "the County unfairly charged him the pro-rata share". Although this is correct, they
25 forget to mention that the County more than just "charged" the Plaintiff, they required
26 payment, sent the payment to collections, and pushed the Plaintiff to put a lien on his
27 property, all in violation of Section 13309.

1 The Defendants continue in their memorandum on page 1 line 24-25 "the
2 Elections Code specifically authorizes the County to bill the candidate for a ballot
3 statement". The Plaintiff 100% agrees with this statement and is one of the few places
4 where the defendants have correctly and accurately quoted Section 13309. The
5 defendants did and do have the legal ability to "bill" indigent candidates, but that is it,
6 they can only bill them, not require payment, charge, make liable, send to collections, or
7 a variety of other actions the Defendants have taken against the Plaintiff.

8 On Page 2 line 4-5 the Defendants state in their Memorandum "the County is
9 allowed by statue to charge him a pro-rata share". This is incorrect as the statue for
10 Section 13309 only states that the County can "bill" an indigent candidate, not "charge"
11 them. Because the Defendants are not using Section 13309 and instead primarily using
12 Section 13307 in there defense it creates a very ambiguous and confusing situation as
13 their arguments simply do not make sense and do not follow the law. The fact is that
14 the Defendants are purposefully ignoring the separation between Sections 13309 and
15 13307 as their excuse for applying the wrong statute to this case. Yet within their
16 documentation they have not attempted to explain their reasoning or arguments for why
17 anyone would apply Section 13307 instead of Section 13309 to indigent billing.

18 The Plaintiff requests the Court to clarify this issue, and establish once and for all
19 that Section 13309 and only Section 13309 is applicable to billing indigent candidates in
20 regards to this case.

21
22 **PROOF THAT ONLY SECTION 13309 APPLIES TO INDIGENT CANDIDATES**

23 In a Demurrer hearing the Plaintiff should not have to present his case or
24 evidence, but because of the ambiguity and confusion that the Defendants have created
25 in the context of weather to apply Section 13309 or Section 13307, the Plaintiff will go
26 into details to prove his case. The Plaintiff would also like to reiterate to the Court, that
27 the Defendants have not stated a single reason for why they should be entitled to apply
28 Section 13307 to the billing and payments of indigent candidates. In their defense, they

1 simply just say they can because it is “statute”. The Plaintiff on the other hand, has a
2 minimum of 4 points that prove Section 13309 and only Section 13309 is applicable
3 to billing indigent candidates, and the Plaintiff has many more points he can present
4 during trial.

5 **1)** Most importantly is the statute itself. The statute overrides any agreements,
6 contracts, or other supporting documentation, and therefore is the most important
7 consideration. Section 13309 clearly states in its first three words “Notwithstanding
8 Section 13307”. This means regardless of the provisions of Section 13307, Section
9 13307 still does not apply to Section 13309. This is a grammatical argument and the
10 Plaintiff is pleading to this Court to recognize that Section 13309 and only section
11 13309 is applicable in this case as it relates to indigent candidate billing. Any
12 references to Section 13307 are minor, that just deal with deadlines, or refer Section
13 13307 back into Section 13309 for indigent candidates. Next the Plaintiff would like to
14 introduce supporting evidence that proves the only section the Defendants explained
15 to the Plaintiff before the election was Section 13309.

16 **2)** In the most recent Judicial Notice filed on 5/9/12(hasn’t been filed yet), Exhibit
17 E is the original agreement and contract between the Defendants and the Plaintiff.
18 The Plaintiff had to sign, in order to apply to be certified as an indigent. At the top of
19 this document in bold type, the document states “**(as provided for in Elections**
20 **Code §13309)**”. This clearly states to the candidate that the process is pursuant to
21 section 13309 not section 13307. Nowhere in the entire document for applying to
22 become a certified indigent did the Defendants ever state that part of the process was
23 pursuant or provided by Section 13307. The Plaintiff would like to note that within this
24 agreement, it did state that the candidate would still be billed his actual pro rata
25 share, but at the time, under the information provided in section 13309, the Plaintiff
26 felt that he would be fairly treated and get a substantial discount on the rate charged
27 to rich and wealthy candidates. Even if the Defendants had put in their contract that
28 Section 13307 was going to be applied to indigent candidates, it still wouldn’t be legal

1 since the statute states that only Section 13309 is applicable to billing indigent
2 candidates.

3 **3)** The next document the Plaintiff is presenting was added by Judicial Notice on
4 April 8th, 2014 as Exhibit D. It is the certification letter from the Defendants which
5 approved the Plaintiffs application for indigent status. In the first line of the letter the
6 Defendants state that the Plaintiff was approved for indigent status "pursuant to
7 California Elections Code section 13309". Nowhere in that letter did it say pursuant to
8 Section 13307 or any other section of the Elections Code. Additionally it clearly stated
9 that the Plaintiff "will not be required" to make payment for his candidate statement at
10 that time. Although the Plaintiffs did blatantly misinterpret Section 13309 in the letter,
11 and even wrote statements that were in violation of Section 13309, it is not applicable to
12 an indigent candidate as the Election Code statute supersedes the letter. What is
13 important is that the letter itself clearly states that Section 13309 and only Section
14 13309 is applicable to the Plaintiffs status as an indigent candidate.

15 **4)** Next we can turn to the California Assembly members directly to get evidence
16 detailed in Judicial Notice from April 8th, 2014, Exhibit B. In the official Bill Analysis of
17 AB 1417 at the April 23rd, 2013 hearing of the Assembly Committee on Elections and
18 Redistricting, the Assembly Members state that "...Section 13309 of the Elections Code,
19 which establishes a procedure for indigent candidates to have statements printed free of
20 charge." The key phrases here are "Section 13309" and "free of charge". They did not
21 say, or free of upfront costs, they did not say without deposit, they did not say to be
22 billed later, they said, "free of charge". They also clearly indicate that Section 13309,
23 not section 13307 is applicable to indigent candidates to have statements printed free.

24 The Plaintiff respectfully requests to the Court to preliminarily acknowledge that it
25 is possible that only Section 13309 is applicable to indigent candidate billing, and to
26 overrule the demurrer and allow a full presentation of the evidence to ensure an
27 informed and educated decision before setting precedent without a trial.

28

1 **DEFENDANTS DEMURRER FAILS AGAINST CAUSES OF ACTION 1-3,5**

2 Instead of the Defendant giving specific examples of what exactly they are
3 demurring within the Plaintiffs Second Amended Complaint, their primary argument is
4 simply that the Government is immune to liability of any responsibilities or mistakes it
5 makes according to the "California Tort Claims Act" and Williams v Horvath (1976).

6 Obviously they do not have a valid or reasonable reason to relinquish liability or
7 responsibility for their actions, as the only law governing this case is whether or not the
8 Defendants followed the processes dictated by the California Elections Code Section
9 13309. If they did not, then the "California Tort Claims Act" does not relinquish their
10 responsibility or liability for not following the Elections Code.

11 Furthermore the defendants continue within their Memorandum on Page 4 lines
12 21-22 that "Elections Code section 13309 ... does not specifically create governmental
13 liability...". It is not the job of the Defendant to decide whether or not following the
14 Elections Code establishes liability, that is the job of the Court. If the Court finds that
15 the Defendants did not follow the Elections Code statute as stated, and that the
16 Defendants were in violation because they are requiring the Plaintiff to pay by sending
17 his bill to collections when the statute specifically states that is against the law, then the
18 Defendants are responsible and liable for not following the Elections Code. Either way
19 the California Tort Claims Act is not applicable and is just another minor procedural
20 argument that ignores the merits of this case.

21 On Page 4 line 16-17 the Defendants state in their Memorandum "a Public
22 entity's duty of care is only that specifically provided by statute." Yet the Defendants do
23 not state which statute they are specifically required to apply, as they do not have the
24 legal ability to apply any statute they want. We can only assume that their justification
25 for invalidating the first five Causes of action is simply that they are following Section
26 13307 and treating the Plaintiff just like a rich or wealthy candidate. Yet every
27 agreement and document the Defendants created when initiating this process
28 specifically limited their use of the statute, to Section 13309, which they are ignoring.

1 Lastly the Defendants completely ignores the direct allegations that they have
2 violated the elections code within the 2nd Cause of Action. There only response is that
3 they do not need to follow the elections code Section 13309, because they can simply
4 ignore it and follow a completely different statute. This is not a valid argument,
5 especially within a demurrer hearing where the Plaintiff has plead as fact that Section
6 13309 and only Section 13309 applies to indigent candidate billing. Yet the Plaintiff
7 does not just need to plead that the Defendants violated the Elections Code, as
8 California Assembly members themselves can prove this fact as is clarified within
9 Judicial Notice filed on 4/7/14, Exhibit C. Within the official Bill Analysis for AB 1572 at
10 the May 5, 2009 Hearing of the Assembly Committee on Elections and Redistricting, the
11 California Assembly Members state: "...*the Elections Code requires the elections official,*
12 *and not the local agency, to attempt to collect any balance that is owed by candidates*".
13 The Assembly Members words speak for themselves. Plaintiff pleads to this Court to
14 recognize the fact that the Defendants may have violated the law, and move to trial.

15
16 **DEFENDANTS INCORRECTLY CLAIM NO CONTRACT - 6TH CAUSE OF ACTION**

17 The defendants claim that there is no contract is baseless, and shows they do
18 not understand the meaning of a contract. A contract can be made through simple
19 verbal agreements, letters, unilateral contracts, and formal mutually signed contracts.
20 There is no question that the Plaintiff has clearly and factually alleged that the
21 Defendants entered into verbal agreement contracts with the Plaintiff. Additionally the
22 Defendants entered the Plaintiff into unilateral contracts, as well as forced the Plaintiff to
23 sign multiple legal contracts regarding Section 13309 and only Section 13309 for
24 indigent billing. The statement on page 5, line 6 of the Defendants Memorandum states
25 "the County did not enter into a contractual relationship". If this is the case, then the
26 Defendants themselves are agreeing that the Plaintiff does not need to pay a dime of
27 this money because there is no legal obligation and no contract that forces the Plaintiff
28 to pay it, and the statute within Section 13309 specifically states the elections official

1 “may” bill, and therefore this entire process is optional. Yet that is not the reality of the
2 situation because the Defendants are demanding payment based on a contract that
3 they themselves created outside of the context of Section 13309, as Section 13309
4 protects indigent candidates like the Plaintiff who are financially crippled.

5 In the context of the agreements between the Plaintiff and the Defendant, every
6 document, every letter and the statute itself, clearly state that the agreement(s) were
7 pursuant to Section 13309 and only Section 13309. Yet the Defendants are continuing
8 to incorrectly apply the wrong statute, Section 13307, directly in front of the Court and
9 using it as justification to gut the protections guaranteed to financially crippled certified
10 indigents. What justification do the Defendants give for ignoring Section 13309 and
11 instead applying Section 13307 to a certified indigent candidate? They give no
12 reasoning at all, and simply state that they are "applying the statute", even though it
13 happens to be the wrong statute. The Plaintiff is observing that the Defendants are
14 trying to trick the Court into believing a distorted and unjustified reasoning for explaining
15 their actions, and its time for these games to stop. The Defendants clearly explain their
16 reliance on Section 13307, which is only applicable to rich and wealthy candidates and
17 not indigent candidates. They state within their memorandum on page 5 lines 17-18
18 "Cabrera's debt to the County is an obligation based on a statute, Elections Code
19 section 13307". The Plaintiff Pleads to the Court to end this mockery of the Statute,
20 and to this Court, by establishing that Section 13309, and only Section 13309 is
21 applicable in this court case as it relates to certified indigent candidate billing.

22 Furthermore, the Defendants state on page 5 line 20 that the County agrees that
23 there is a contractual dispute, as the Plaintiff "merely disputes the amount he was
24 charged." In a verbal and or written agreement, which the Plaintiff has copied in Judicial
25 Notice Exhibits D & E, it is clear that having a dispute over the amount charged is a
26 valid contractual dispute. Additionally the dispute within the contracts also involves the
27 pursuant statute, and every contract and agreement before the election stated in black
28 and white that only Section 13309 would apply.

1 The document the Defendants created before the election, weather be a letter, a
2 contract, or other document to sign, as well as verbal agreements, all clearly stated that
3 the indigent process follows Section 13309 and only section 13309. Yet now the
4 primary defense is that the Defendants "followed the statue", yet they use and quote
5 Section 13307 as their justification over and over again. That is the definition of
6 misrepresentation, by getting someone to agree to Section 13309 but then applying a
7 complete different statute that was never agreed upon by the Plaintiff.

8 The plaintiff Pleads to the court to recognize that the Defendants must follow the
9 statute pursuant to Section 13309, not any other Section of the Election Code as it
10 pertains to indigent candidate billing. Additionally the Court should recognized that the
11 Defendants created legal agreements which constitute contracts with the Plaintiff, even
12 though those agreement and contracts do not override the statute in anyway.

13
14 **DEFENDANTS ENGAGED IN DIRECT COLLECTIONS - 4TH CAUSE OF ACTION**

15 The debt owed by the Plaintiff is a government debt, the liability is already
16 accounted for, and the government has already stated that they plan to take a lean on
17 the Plaintiffs property, garnish wages, and other actions to get the money. Therefore
18 the money is just as if the Plaintiff has already paid it and can be written off as a liability
19 that is equivalent to money paid as a expended special instance of a Common Count.

20 The Defendants also contend in their Memorandum on Page 5 line 24 that "the
21 County has not yet initiated a collections action". This is a false statement, as the Board
22 of Registrar purposefully violated the elections code when it sent the Plaintiffs bill to the
23 Department of Revenue to initiate collections, and collections were initiated with
24 numerous collection letters, collections phone calls, and attempts to get the Plaintiff to
25 sign away a lean on his potential property. This evidence can be presented at trial and
26 is attached to the original Complaint filed 3-22-13????(should double check date).

27 The essential elements of the account have been established by the Plaintiff. 1)
28 The initial transaction between the two parties established their relationship when the

1 Defendants published the Plaintiffs Candidate Statement for an exact cost of \$0.
2 Regardless of weather or not money change hands, this was still a legal agreement,
3 and legal transaction, where services were still rendered. 2) The agreement between
4 the parties is based on the Election Coded Section 13309, which states that the
5 Defendants may "bill" and only "bill" the actual pro-rata share to the Plaintiff. 3) Lastly
6 the bill clearly established the amount requested to be refunded, and the Plaintiff
7 immediately requested the Defendants to give this money back within weeks after the
8 Plaintiff received the bill, and the bill became a permeant irreversible liability once it was
9 sent to the local collections agency.

10 All contracts and agreements both verbal and signed by the Plaintiff clearly
11 stated that the indigent candidate process is only pursuant to Section 13309, along with
12 letters from the County and the Election code itself, the Defendants have violated the
13 election code and entered into illusory contracts by misrepresenting to the Plaintiff that
14 they were using Section 13309 according to statute. Instead the Defendants have been
15 using and are still continuing to use Section 13307 to justify their action against the
16 Plaintiff to this Court, when it is clear in the Elections code and in all the agreements
17 before the election that only Section 13309 is pursuant. Additionally the Defendants
18 have no justification for disregarding and gutting the intention of section 13309, which
19 protects the rights of financially crippled certified indigents.

20 The Plaintiff respectfully requests the Court to hold the Defendants accountable
21 and take responsibility for the money they are taking from the Plaintiff. Their original
22 agreements and the Election code itself clearly state that only Section 13309 is
23 applicable to indigent candidates. Therefore the Plaintiff respectfully requests that this
24 continuous demurring (three in total) be overruled and ended to allow this case to
25 rightfully go to trial.

1 **DEFENDANTS INCORRECTLY CLAIM THEY ARE ALLOWED TO HARASS**

2 Instead of the Defendants giving a defense that refutes the claim that they have
3 engaged in harassment of an indigent by engaging in collections, they have chosen to
4 argue that they are legally immune from harassing the Plaintiff. The only question the
5 Court needs to decide is if Elections Code Section 13309 gives the Defendants the legal
6 ability to harass the Plaintiff for collections. The Plaintiff has alleged as fact that
7 nowhere in Section 13309 does it give the legal right for the Defendants to engage in
8 the collections methods they have undertaken. Section 13309 clearly states that only
9 an "elections official" can "bill" and only "bill" an indigent candidate, not send the bill to
10 collections, which means the Defendants actions are a violation of the Elections Code.

11 It does not matter if the Defendants are immune from consumer debt laws,
12 because if the Court finds that they were in violation of Section 13309 while engaged in
13 harassing collection activities that is all that matters. The Collections Harassment
14 Violations and Fair Debt Practices Act are still applicable to this case as an example of
15 the protections to all citizens that should be entitled to a certified indigent candidate.

16 The Plaintiff respectfully requests the Court to overrule this demurrer based on a
17 clear Cause of Action that shows the Defendants may have engaged in harassing
18 collections activities in violation of Section 13309.

19
20 **THE COUNTY'S DEMAND THAT THE PLAINTIFF MUST PAY, IS NOT AUTHORIZED**

21 In the Defendants Memorandum they write on Page 7 lines 19-21 "The County's
22 Demand that Cabrera pay for the pro-rata share of his optional candidate statement is
23 expressly authorized by the election code". This is not true because no where in
24 Elections Code Section 13309 does it state that the "County" can "demand pay" from an
25 indigent candidate. Instead Section 13309 only states that the local "elections official"
26 can "bill" and only "bill" an indigent candidate. The local agency can not require,
27 demand, force, or send the bill to collections.

1 Because only Section 13309 is applicable to indigent candidates, and the
2 Defendants are applying Section 13307, it is obvious that the Defendants are not
3 following the Election Code as it was intended to be followed. This is limiting any future
4 use by the Plaintiff of enacting Section 13309, which prevents his first amendment right
5 to free speech without fear of being further financially crippled by the Defendants.

6 On pages 7-8 of the Defendants Memorandum they quote both Section 13307
7 and Section 13309 in length. These quotes show the stark difference between how a
8 wealthy candidate can be treated under the statute, and how a indigent candidate should
9 be treated. In Section 13307 it clearly states that "In the event of underpayment, the
10 local agency may require the candidate to pay...", as is applied to wealthy candidates
11 and clearly defines that they are "required" to "pay" any underpayments. Yet an
12 indigent candidate would never have an underpayment because they are not required to
13 pay at all. Section 13309, starts with "Notwithstanding Section 13307", and clearly
14 states that "Nothing in this section shall prohibit the elections official from billing the
15 candidate...". There is obviously a HUGE difference between 1) the "local agency" can
16 "require payment", in Section 13307 for wealthy candidates, and 2) "elections official"
17 may consider "billing the candidate", in Section 13309 for indigent candidates.

18 The Plaintiff pleads to this court as a matter of fact, that Section 13309 allows the
19 "elections official", and only the "elections official" to "bill" and only "bill" an indigent
20 candidate. But if you are a wealthy candidate, according to Section 13307, the "local
21 agency" can "require" the candidate to "pay". This is not complicated statute, yet the
22 Defendants have misrepresented it, as it is applied to indigent candidates.

23 24 **DEFENDANTS ARE MISREPRESENTING A PREVIOUS COURT RULING**

25 Our court system is based on "the truth and nothing but the truth" to have a fair
26 and just system. Yet the Defendants have gone too far and are blatantly giving
27 misinformation about a previous court ruling.

1 In the Defendants Memorandum on page 9 line 4-5 they state *"In fact, the*
2 *leading case interpreting California elections law and its requirement that indigent*
3 *candidates be charged for their ballot statements is squarely on point here. In NAACP v*
4 *Jones (1997), an indigent judicial candidate..."* This is a blatant misrepresentation of
5 that ruling. First of all, this "judicial candidate" was not certified indigent at all! Secondly
6 in the ruling NAACP v Jones (1997) the judge specifically stated *"The portion of the*
7 *statute authorizing the County to require indigent candidates to reimburse printing costs*
8 *after the election is not challenged in this suit, as plaintiffs specifically categorize*
9 *themselves as neither indigent nor wealthy. We therefore issue no opinion as to the*
10 *validity of the cost reimbursement system as it applies to indigent candidates."*

11 There is no question that this case has nothing to do with indigent candidates.
12 Clearly the Defendants are misleading by writing words like "In Fact", and that this is the
13 "leading case interpreting...indigent candidates be charged". When the truth is that the
14 case actually has no relevance towards indigent candidates, and is not applicable to this
15 case at all. This is not a new issue in this case as it has already been brought up by the
16 Plaintiff including within the amended complaint and during verbal arguments within the
17 last demurer hearing. To have the Defendants blatantly ignore and construe the
18 previous documentation about this previous case, and then blatantly misrepresent the
19 case is extremely offensive to the Plaintiff and makes him feel put down and
20 unimportant. If the Defendants are this careless about arguments so clearly contrary
21 and opposite to factual information, there is no question in the eyes of the Plaintiff that
22 the Defense is using similar tactics for there arguments that they can use Section 13307
23 when in fact the Election Code only allows Section 13309.

24 The Plaintiff requests to the Court to officially state that the NAACP v Jones
25 (1997) case is not applicable to indigent candidates, as is stated within the ruling.
26 Additionally the Plaintiff requests the Court to review this matter and determine if a
27 warning or sanctions are appropriate to clarify to the Defendants that it is not ok to
28 misrepresent a previous court case in there arguments.

1 **THE COMPLAINT IS AMENDABLE**

2 Although the Plaintiff has shown sufficient criteria to establish multiple Causes of
3 Action, the Plaintiff acknowledges there are numerous mistakes in the Second
4 Amended Complaint that can be fixed and improved at the request of the Court. The
5 Plaintiff simply ran out of time during his last amendment editing. Unfortunately because
6 of page constraints the Plaintiff can't list the dozens of amendments that can clarify the
7 Plaintiffs legal arguments and Causes of Actions within his Complaint. In summary:

8 The Plaintiff can fix dozens of errors, misquotes, and do further research that
9 legally argues his case. This includes more Causes of Action, more laws, additional
10 violation details, additional clarification details explaining the Causes of Action, and
11 proving harassment without quoting the consumer protections act.

12 If the court does find that the County is not responsible for the law, then someone
13 must be responsible for the law, and the party that is still responsible is the California
14 State Government. Therefore if the demurrer is sustained, the Plaintiff can easily add
15 the State Government, which is responsible for all aspects of the Election Code, back
16 into the Complaint. The Plaintiff can also more clearly define his pleads, allegations,
17 factual statements, and arguments to strengthen his case. Amending the complaint to
18 show without a doubt the actions of the County were in violation and against the
19 Plaintiff's rights can easily be done, at the Courts request.

20
21 **CONCLUSION**

22 For all the foregoing reasons, the demurrer of the County Defendants Current
23 Demurrer should be overruled.

24
25 DATED: May 12th, 2014

RESPECTFULLY SUBMITTED,

26 By: _____

27 Jay Blas Jacob Cabrera

28 Plaintiff in Pro Persona