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10 *Attorneys for Contestant Mike Hutchinson*

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 IN AND FOR THE COUNTY OF ALAMEDA

13 MIKE HUTCHINSON,

14 Contestant,

15 v.

16 NICK RESNICK,

17 Defendant.

Case No.

**COMPLAINT/STATEMENT OF  
ELECTION CONTEST**

**(Elec. Code, § 16400 et seq.)**

18 ALAMEDA COUNTY REGISTRAR OF  
19 VOTERS TIM DUPUIS, in his official capacity;  
20 CITY OF OAKLAND CITY CLERK ASHA  
21 REED, in her official capacity,

Real Parties in Interest.

1 TO THE ALAMEDA COUNTY SUPERIOR COURT CLERK:

2 COMES NOW Contestant MIKE HUTCHINSON and alleges as follows:

3 1. Contestant MIKE HUTCHINSON is a qualified registered voter and elector of District  
4 No. 4 of the City of Oakland/Oakland Unified School Board of Education (“Board of Education”) in  
5 the County of Alameda, State of California, in which the general municipal election for Director of the  
6 Board of Education, District No. 4, was held on November 8, 2022. Contestant Hutchinson was a  
7 candidate for Director of the Board of Education, District No. 4, in the November 8, 2022, general  
8 municipal election.

9 2. Defendant NICK RESNICK is the candidate who was declared elected as Director of the  
10 Board of Education, District No. 4, as a result of the November 8, 2022, election and whose election is  
11 contested herein.

12 3. Real Party in Interest ALAMEDA COUNTY REGISTRAR OF VOTERS TIM DUPUIS  
13 was the official responsible for conducting the November 8, 2022 general municipal election for the  
14 City of Oakland, including the Board of Education, and is the official who prepared and submitted the  
15 certified statement of the results of that election.

16 4. Real Party in Interest CITY OF OAKLAND CITY CLERK ASHA REED is the official  
17 legally responsible for conducting a canvas of returns and certifying the results of the Board of  
18 Education election to the Oakland City Council. (Elec. Code, § 10262.)

19 5. On November 8, 2022, the general municipal election was held for the Board of  
20 Education, District No. 4. The three candidates appearing on the ballot for the District No. 4 election  
21 were Contestant Mike Hutchinson, Defendant Nick Resnick, and Pecolia Manigo.

22 6. On December 20, 2022, at its regular meeting held on that date, Oakland City Council  
23 adopted a resolution by a 7-0 vote (1 Member excused) declaring the results of the general municipal  
24 election held on November 8, 2022, accepting the canvas of election returns prepared by Real Party in  
25 Interest Reed. Among other items, the resolution declared that Defendant Resnick was elected as  
26 Director of the Board of Education District No. 4, over Contestant Hutchinson.

27 7. This Statement of Election Contest is filed pursuant to Elections Code section 16400 et  
28 seq. to contest the results of the November 8, 2022, general municipal election for Director of the Board

1 of Education, District No. 4, on the grounds that: (i) the precinct board in conducting the election or in  
2 canvassing the returns, made errors sufficient to change the result of the election (Elec. Code,  
3 § 16100(f)); and (ii) there was an error in the vote-counting programs or summation of the ballot counts  
4 (*id.*, § 16100(g)).

5 8. Because none of the three candidates for office received a majority in the first round of  
6 voting, Ranked Choice Voting applied to the tabulation of the election results.

7 9. Real Party in Interest Dupuis has acknowledged that the electronic system used to tally  
8 the ballots for the City of Oakland's Ranked-Choice Voting system was not configured properly when  
9 tabulating the results of the November 8, 2022 general election, and that the outcome of the contest for  
10 Director of the Board of Education, District No. 4, was affected by the erroneous configuration.

11 10. As a result of the improper configuration, ballots that should have been counted as first  
12 round ballots for Contestant Hutchinson were improperly excluded in the first round tabulation.  
13 (Oakland City Charter, § 1105(g).) Contestant Hutchinson was determined to have finished in third  
14 place with 41 fewer votes than candidate Pecolia Manigo, out of a total of over 26,000 ballots cast.  
15 Contestant Hutchinson was therefore eliminated from further tabulations of the vote, and Defendant  
16 Resnick was declared the winner in the second round of voting.

17 11. Were the tally system to have been properly configured, an additional 115 first-choice  
18 ballots should have been counted for Contestant Hutchinson, making him the second-place finisher in  
19 the first tabulation, and eliminating Pecolia Manigo. On the second round tabulation, after redistributing  
20 the voters who had selected Pecolia Manigo as a first choice, Contestant Hutchinson would then have  
21 received more votes than Defendant Resnick, making Contestant Hutchinson the winner of the election  
22 for Director of the Board of Education, District No. 4.

23 12. The irregularities and errors set forth above were sufficient to change the result of the  
24 election and to result in Defendant Resnick having been declared elected in the November 8, 2022,  
25 general municipal election.

26 13. If the proper configuration had been utilized by Real Party in Interest Dupuis and had  
27 the Ranked Choice Votes been properly tabulated as required by the procedure set forth in the Oakland  
28 City Charter, the number of votes tabulated for Contestant Hutchinson would have been greater than

1 the number of votes tabulated for Defendant Resnick, and consequently Defendant Resnick would not  
2 have been declared elected to office as Director of the Board of Education, District No. 4, and Contestant  
3 Hutchinson would have been declared elected to the office instead.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Contestant Hutchinson prays for judgment as follows:

6 1. That the Court issue its findings of fact and conclusions of law annulling and setting  
7 aside the election of Defendant Resnick as Director of the Board of Education, District No. 4;

8 2. That the Court declare Contestant Hutchinson to be elected as Director of the Board of  
9 Education, District No. 4, and to be entitled to a certificate of election;

10 3. That the Court direct Real Party in Interest City of Oakland City Clerk Reed to  
11 immediately make out and deliver to Contestant Hutchinson a certificate of election as Director of the  
12 Board of Education, District No. 4;

13 4. That the Court award Contestant Hutchinson his costs of this proceeding, including any  
14 out-of-pocket expenses and reasonable attorneys' fees; and

15 5. That the Court grant Contestant Hutchinson such other, different, or further relief as the  
16 Court may deem just and proper.

17 DATED: January 5, 2023

Respectfully submitted,

18 STRUMWASSER & WOOCHELLP  
19 Fredric D. Woocher  
20 Beverly Grossman Palmer  
21 Salvador E. Pérez

22 By:   
23 Beverly Grossman Palmer

24 *Attorneys for Contestant Mike Hutchinson*

1 **VERIFICATION**

2 I, Mike Hutchinson, declare:

3 I am the Contestant in this action. I have read the foregoing Complaint/Statement of Election  
4 Contest, and I am familiar with its contents. The matters stated therein are true of my own personal  
5 knowledge, except on those matters alleged to be true on information and belief, and as to those matters  
6 I am informed and believe them to be true.

7 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
8 true and correct.

9 Executed this \_\_\_\_th day of January 2023, at \_\_\_\_\_, California.

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12 Mike Hutchinson  
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