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5 ELECTRONIC FRONTIER FOUNDATION,
THE CALIFORNIA VOTER FOUNDATION,
6 THE VERIFIED VOTING FOUNDATION,
and VOTERS UNITE!
7

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 PETER BENAVIDEZ, *et al.*,) Case No. 04-CV-00525-VAP-SGL
11)
Plaintiffs,) **MOTION FOR LEAVE TO FILE BRIEF**
12 v.) **AMICUS CURIAE; DECLARATION OF**
13 KEVIN SHELLEY, as Secretary of State for the) **CINDY A. COHN**
State of California)
14) Date: June 3, 2004
Defendant.) Time: 2:30 p.m.
15) Judge: Hon. Florence Marie Cooper
_____)

16 The Electronic Frontier Foundation (“EFF”), California Voter Foundation,
17 VerifiedVoting.org and VotersUnite apply for permission to file the accompanying memorandum
18 as amici curiae addressing voting security and integrity issues in support of the Secretary of State.

19 EFF is a donor-supported membership organization working to protect our fundamental
20 rights regardless of technology; to educate the press, policymakers and the general public about
21 civil liberties issues related to technology; and to act as a defender of those liberties. Among our
22 various activities, EFF opposes misguided legislation, initiates and defends court cases preserving
23 individuals’ rights, launches global public campaigns, introduces leading edge proposals and
24 papers, hosts frequent educational events, engages the press regularly, and publishes a
25 comprehensive archive of digital civil liberties information at one of the most linked-to websites in
26 the world. Given the constitutional significance of the issue before the Court and the impact an
27 adverse decision would have on EFF’s mission, and on the lives of all California citizens, EFF
28 seeks to have its perspective brought to the Court’s attention.

1 EFF is joined in this brief by the California Voter Foundation, Verified Voting.org and
2 VotersUnite, three other organizations that share its concerns who are more fully described in the
3 proposed amicus brief.

4 As testified in the Declaration of Cindy A. Cohn filed herewith, Plaintiffs have failed to
5 respond to our request for consent to the filing of this brief made on May 13, 2004. Defendant has
6 consented to the filing of this brief.

7
8 DATED: May 18, 2004

ELECTRONIC FRONTIER FOUNDATION

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10 By _____

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DECLARATION OF CINDYA A. COHN

I, Cindy A. Cohn, declare as follows:

1. I am an attorney at law duly admitted to practice before this Court. I am counsel of record for amici Electronic Frontier Foundation, The California Voter Foundation, The Verified Voting Foundation, and Voters Unite!. I submit this declaration in support of the attached Motion for Leave to Brief Amicus Curiae. The facts stated here are known to me of my own personal knowledge, except where otherwise stated. If called upon to testify thereto I could and would competently do so.

2. I spoke with counsel for Plaintiff, John McDermott, on May 13, 2004, to ask for consent to file this brief. Counsel told me he would check with his clients and respond to me on May 14, 2004. As of the time of this filing, counsel for Plaintiff has not responded to my request.

3. Defendant has consented to the filing of this brief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this document was executed in San Francisco, California.

Respectfully submitted,

DATED: May 18, 2004

By _____
Cindy A. Cohn