

1 corporate boards. The Secretary of State also will likely mail letters to corporations advising them of  
2 their annual filing obligation (the Corporate Disclosure Statement) and AB 979's requirements and  
3 create spreadsheets to track which corporations comply or do not comply with AB 979's requirements.

4 19. The Secretary of State undoubtedly will expend taxpayer funds or taxpayer-financed  
5 resources performing the above-referenced tasks in furtherance of and to ensure compliance with the  
6 racial, ethnicity, sexual preference, transgender quotas required by AB 979. At a minimum, salaried  
7 personnel will perform these tasks.

## 8 **FIRST CAUSE OF ACTION**

### 9 **(Violation of Cal. Const., art I, §§ 7 and 31)**

10 20. Plaintiffs incorporate by reference and reallege all their prior allegations.

11 21. An actual and justiciable controversy has arisen and now exists between Plaintiffs and  
12 Defendant. Plaintiffs contend that they have paid or incurred income and other taxes to the State of  
13 California during the one-year period prior to the commencement of this action and that Defendant is  
14 expending, intends to expend, or will expend taxpayer funds and taxpayer-financed resources illegally in  
15 furtherance of, ensuring compliance with, and otherwise effectuating the racial, ethnicity, sexual  
16 preference, and transgender quotas required by AB 979.

17 22. Specifically, Plaintiffs contend that any expenditure of taxpayer funds or taxpayer-  
18 financed resources on AB 979 is illegal under the California Constitution. The legislation's requirement  
19 that certain corporations appoint a specific number of directors based upon race, ethnicity, sexual  
20 preference, and transgender status is immediately suspect and presumptively invalid and triggers strict  
21 scrutiny review. Cal. Const., art. I, §§ 7 and 31; *see e.g., Coral Construction, Inc. v. City and County of*  
22 *San Francisco*, 50 Cal. 4th 315, 337 (2010); *Strauss v. Horton*, 46 Cal. 4th 364, 412 (2009); *Connerly v.*  
23 *State Personnel Bd.*, 92 Cal. App. 4th 16, 40-44 (2001); *Hiatt v. City of Berkeley*, 130 Cal. App. 3d 298,  
24 309 (1982). Because it classifies directors by virtue of their race, ethnicity, sexual preference, or  
25 transgender status, AB 979 can only be justified by a compelling governmental interest, and its use of  
26 race and ethnicity must be narrowly tailored to serve that compelling interest. *See Coral Construction*,  
27 50 Cal. 4th at 337; *Strauss*, 46 Cal. 4th at 412; *Connerly*, 92 Cal. App. 4th at 44; *Hiatt*, 130 Cal. App. 3d  
28 at 309. As Defendant cannot make these difficult showings, AB 979 is unconstitutional and any

1 expenditure of taxpayer funds or taxpayer-financed resources in furtherance of, ensuring compliance  
2 with, or otherwise effectuating the racial, ethnicity, sexual preference, and transgender quotas required  
3 by AB 979 is illegal.

4 23. On information and belief, Defendant contends AB 979 does not violate the California  
5 Constitution and that therefore he is not expending taxpayer funds and taxpayer-financed resources  
6 illegally and does not intend to expend or will not expend taxpayer funds and taxpayer-financed  
7 resources illegally in the future.

8 24. A judicial declaration pursuant to Code of Civil Procedure section 1060 is necessary and  
9 appropriate so that the parties may ascertain their respective legal rights and duties with respect to  
10 Defendant's illegal expenditure of taxpayer funds and taxpayer-financed resources on AB 979.

11 25. Plaintiffs are being and will be irreparably harmed by Defendant's illegal expenditure of  
12 taxpayer funds and taxpayer-financed resources on AB 979 unless and until Defendant's illegal  
13 expenditures are enjoined.

14 26. Plaintiffs have no adequate remedy at law.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiffs pray for the following relief against Defendant:

17 1. A judgment declaring any and all expenditures of taxpayer funds and taxpayer-financed  
18 resources in furtherance of, ensuring compliance with, or otherwise effectuating the racial, ethnicity,  
19 sexual preference, and transgender quotas required by AB 979 to be illegal;

20 2. An injunction permanently prohibiting Defendant from expending or causing the  
21 expenditure of taxpayer funds and taxpayer-financed resources in furtherance of, ensuring compliance  
22 with, or otherwise effectuating the racial, ethnicity, sexual preference, and transgender quotas required  
23 by AB 979.

24 3. Costs of suit herein;

25 4. Reasonable attorney's fees under the Private Attorney General Statute, Code of Civil  
26 Procedure section 1021.5, the Common Defense Fund, and the Substantial Benefit Doctrine; and  
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