

1 ELLIS GEORGE LLP
Eric M. George (State Bar No. 166403)
2 egeorge@ellisgeorge.com
Keith J. Wesley (State Bar No. 229276)
3 kwesley@ellisgeorge.com
Christopher W. Arledge (State Bar No. 200767)
4 carledge@ellisgeorge.com
2121 Avenue of the Stars, 30th Floor
5 Los Angeles, California 90067
Telephone: (310) 274-7100
6 Facsimile: (310) 275-5697

7 Attorneys for Defendants and
Counterclaimants Antonio R. Villaraigosa
8 and Antonio Villaraigosa for Governor
2026
9

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12

13 STEPHEN J. CLOOBECK, an
14 individual,

15 Plaintiff and
16 Counterdefendant,

17 vs.

18 ANTONIO R. VILLARAIGOSA, an
individual; ANTONIO
19 VILLARAIGOSA FOR GOVERNOR
2026, a non-profit political
20 organization; and DOES 1-10,
inclusive,

21 Defendants and
22 Counterclaimants.
23
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27
28

Case No. 2:25-cv-03790-AB-SKx

Hon. André Birotte Jr.

**NOTICE OF MOTION AND
MOTION FOR JUDGMENT ON
THE PLEADINGS OF
DEFENDANTS AND
COUNTERCLAIMANTS
ANTONIO R. VILLARAIGOSA
AND ANTONIO VILLARAIGOSA
FOR GOVERNOR 2026**

**MEMORANDUM OF POINTS
AND AUTHORITIES**

*[Request for Judicial Notice,
[Proposed] Order Thereon Lodged
Concurrently Herewith]*

Date: July 11, 2025
Time: 10:00 a.m.
Courtroom: 7B

Action Filed: April 29, 2025
Trial Date: None Set

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE THAT** on July 11, 2025, at 10:00 a.m., or as
3 soon thereafter as this matter may be heard, in the courtroom of the Honorable
4 André Birotte Jr., located in the United States Courthouse, 350 West First Street,
5 Los Angeles, California, Defendants and Counterclaimants Antonio R. Villaraigosa
6 and Antonio Villaraigosa for Governor 2026 (“Defendants”) will and hereby do
7 move this Court, pursuant to Fed. R. Civ. P. 12(c), for an order granting judgment
8 on the pleadings (the “Motion”).

9 This Motion is made upon the grounds that: (i) as a matter of law, Mr.
10 Cloobek’s lawsuit must be dismissed because the Lanham Act does not apply to
11 political speech; (ii) dismissal is required because trademark law is confined to
12 commercial goods or services; (iii) compounding the inapplicability of trademark
13 law to political speech, the First Amendment bars any application of the Lanham
14 Act that would burden political speech; (iv) the facts and circumstances here
15 underscore the free speech limitations presented by—and the perverse consequences
16 that would attach to—Mr. Cloobek’s claims if not promptly dismissed; (v)
17 frequent, previous uses of the phrase at issue underscore the incompatibility of Mr.
18 Cloobek’s lawsuit with the First Amendment; (vi) Mr. Cloobek’s trademark
19 application reveals the true purpose of the protection he seeks: promoting public
20 awareness of himself as a candidate for public office; (vii) the relief sought by Mr.
21 Cloobek reveals the extent of the First Amendment violation he invites in
22 attempting to muzzle Mr. Villaraigosa’s political speech; (viii) Mr. Cloobek seeks
23 to tilt an election in his favor by stifling debate and disguising the truth about which
24 candidate has a record of proven problem solving; and (ix) Mr. Cloobek seeks by
25 these proceedings to force a drain on his political opponent’s campaign funds.

26 This Motion is based on the accompanying Memorandum of Points and
27 Authorities, Request for Judicial Notice, the Declaration of Eric M. George filed
28 concurrently herewith, all of the pleadings, files, and records in this proceeding, all

1 other matters of which the Court may take judicial notice, and any argument or
2 evidence that may be presented to or considered by the Court prior to its ruling.

3 This Motion is made following the conference of counsel pursuant to L.R. 7-
4 3, which took place on May 13, 2025.

5
6 DATED: June 4, 2025

ELLIS GEORGE LLP

Eric M. George

Keith J. Wesley

Christopher W. Arledge

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11 By: s/Eric M. George
Eric M. George
12 Attorney for Defendants and
13 Counterclaimants Antonio R. Villaraigosa
14 and Antonio Villaraigosa for Governor
15 2026
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 By this lawsuit—an unfortunate “first”—plaintiff Stephen Cloobek seeks to
4 tilt the 2026 California gubernatorial election in his favor by preventing another
5 candidate from using the commonly-employed phrase “proven problem solver.”

6 Such a gambit, based solely on a pending but undecided trademark
7 application, is anathema not only to federal trademark law and the First
8 Amendment, but to that other candidate—Antonio Villaraigosa, who formerly
9 served both as Los Angeles mayor and as Speaker of the State Assembly, and who
10 now brings this motion for judgment on the pleadings (the “Motion”).

11 As Mr. Villaraigosa now demonstrates, Mr. Cloobek’s lawsuit
12 misunderstands fundamental principles of constitutional and federal law by:

- 13 • attempting to wield trademark law against political speech, despite
14 trademark law’s application solely to commercial goods and services;
- 15 • burdening the First Amendment rights of Mr. Villaraigosa and other
16 candidates who seek to engage in robust free speech in an election contest; and
- 17 • trying to monopolize a common phrase which scores of politicians have
18 used long before the parties herein, and which must remain available to all
19 candidates seeking office in a constitutional democracy.

20 These legal derelictions have not, unfortunately, restrained Mr. Cloobek
21 from filing suit in order to achieve what we believe his agenda to be:

- 22 • shielding himself from ongoing public debate whether he is a problem
23 creator (not solver), and the personal nature of such problems he has created; and
- 24 • forcing Mr. Villaraigosa to expend precious campaign funds to defend
25 against Mr. Cloobek’s lawsuit.

26 For these reasons, as set forth more fully below, we respectfully seek
27 dismissal of Mr. Cloobek’s lawsuit without leave to amend, and intend to seek
28 reimbursement of all incurred fees and costs following such dismissal.

1 **II. THE ALLEGATIONS / FACTUAL RECORD BEFORE THIS COURT**

2 As alleged in Mr. Cloobek’s complaint:

- 3 • He and Mr. Villaraigosa “are candidates for Governor of California”
4 (RFJN, Ex. 1 at ¶ 1);
- 5 • “In connection with [his] campaign,” Mr. Cloobek “has been using the
6 trademark ‘I AM A PROVEN PROBLEM SOLVER’ . . . , which is subject to U.S.
7 Trademark Application Serial No. 98899658” (*ibid.*);
- 8 • Mr. Villaraigosa and his campaign—defendant “Antonio Villaraigosa
9 for Governor 2026, a non-profit political organization” (*id.* at caption, ¶6)—are
10 engaged in the “pervasive and unrelenting use of a confusingly similar trademark
11 ‘PROVEN PROBLEM SOLVER’ . . . in connection with Villaraigosa’s campaign”
12 (*id.* at ¶2); and
- 13 • Mr. Villaraigosa and his campaign “have aimed solely at unfairly
14 competing with Plaintiff by displaying and marketing the Infringing Mark.” (*Ibid.*)

15 In response to the complaint, Mr. Villaraigosa and his campaign have
16 answered, admitting to using the phrase “proven problem solver” in connection with
17 the campaign. (RFJN, Ex. 2 at ¶20.)

18 Apart from the pleadings, and to furnish the Court with additional, judicially-
19 noticeable facts relevant to the adjudication of this Motion, Defendants have
20 concurrently lodged a Request for Judicial Notice that:

- 21 • Identifies, with citations, instances over the past several decades in
22 which the phrase “proven problem solver” has been employed in connection with
23 political campaigns (RFJN, Ex. 3); and
- 24 • Attaches litigation filings from and about Mr. Cloobek—not for the
25 truth of their contents, but to identify already-public topics that may be debated in
26 the course of the impending gubernatorial campaign. (RFJN, Exs. 4-11.)
- 27
- 28

1 **III. LEGAL ARGUMENT**

2 **A. The Court Should Dismiss Mr. Cloobek’s Fatally-Defective**
3 **Lawsuit Without Leave To Amend**

4 This Motion, pursuant to Federal Rule of Civil Procedure 12(c), should be
5 granted without leave to amend, as “the complaint could not be saved by any
6 amendment.” *Sonoma Cnty. Ass’n of Retired Emps. v. Sonoma Cnty.*, 708 F.3d
7 1109, 1118 (9th Cir. 2013). *See also* Fed. R. Civ. P. 12(c) (“After the pleadings are
8 closed—but early enough not to delay trial—a party may move for judgment on the
9 pleadings.”).

10 **B. As A Matter of Law, Mr. Cloobek’s Lawsuit Must Be Dismissed**
11 **Because The Lanham Act Does Not Apply To Political Speech**

12 **1. Dismissal Is Required Because Trademark Law Is Confined**
13 **To Commercial Goods Or Services**

14 In seeking to limit a political opponent’s speech in connection with
15 California’s 2026 gubernatorial contest, Mr. Cloobek misunderstands the limited,
16 commercial scope of federal trademark law, specifically the Lanham Act, which
17 “prohibits conduct that would confuse consumers as to the origin, sponsorship, or
18 approval of goods or services.” *OTR Wheel Eng’g, Inc. v. W. Worldwide Servs.,*
19 *Inc.*, 897 F.3d 1008, 1013 (9th Cir. 2018).

20 Trademark law will not countenance a supposed holder’s effort to arrogate to
21 himself only—and to silence others from using—supposedly trademark-protected
22 words in a non-commercial context.¹ Illustrative is *Think Rubix, LLC v. Be Woke*.

23 _____
24 ¹ Even where a commercial / noncommercial distinction is blurred—and here it
25 is not, as Mr. Cloobek’s complaint concedes he “has been using the trademark . . .
26 [i]n connection with [his] campaign” (RFJN, Ex. 1 at ¶1)—courts within this Circuit
27 have expeditiously dismissed trademark actions at the pleading stage. *See, e.g.,*
28 *Destefani v. Ubisoft Ent.*, 2022 WL 649262, at *5-6 (C.D. Cal. Jan. 10, 2022)
(dismissing trademark claims at pleading stage and without leave to amend because
First Amendment protected use of plaintiff’s name and related trademarks in video

1 *Vote*, 2022 WL 1750969 at *3 (E.D. Cal. May 31, 2022), in which owners of the
2 trademark “WOKE VOTE” sued over the mark “Be Woke. Vote” to promote their
3 political engagement efforts and their sale of goods and services. Dismissing the
4 action without leave to amend, the district court held the defendants’ use of the
5 allegedly infringing phrase was “inherently intertwined with their efforts to inform
6 and persuade the public on social and political issues.” (*Ibid.*) Even though the
7 “plaintiff ha[d] a valid trademark covering the services in which the parties are
8 engaged,” the district court held the Lanham Act inapplicable, given “the
9 fundamentally noncommercial nature of the services places the defendants’ actions
10 within the exception to the Lanham Act.” (*Ibid.*)

11 *Think Rubix, LLC* is merely a recent application of well-established
12 jurisprudence identifying and explaining why litigation efforts such as Mr.
13 Cloobek’s are doomed at the outset:

14 It is important that trademarks not be ‘transformed from rights against
15 unfair competition to rights to control language.’ Mark A. Lemley,
16 *The Modern Lanham Act and the Death of Common Sense*, 108 Yale
17 L.J. 1687, 1710-11 (1999). Such a transformation would diminish our
18 ability to discuss the products or criticize the conduct of companies
19 that may be of widespread public concern and importance. *See id.*

20 ‘Much useful social and commercial discourse would be all but
21 impossible if speakers were under threat of an infringement lawsuit
22 every time they made reference to a person, company or product by
23 using its trademark.’ *New Kids on the Block v. News America Publ’g,*
24 *Inc.*, 971 F.2d 302, 307 (9th Cir. 1992). The [lower court’s]

25 _____
26 game); *Jackson v. Netflix Inc.*, 506 F. Supp. 3d 1007, 1016-17 (C.D. Cal. 2020)
27 (dismissing trademark claims at pleading stage and without leave to amend based on
28 First Amendment protection of use of “Tiger King” in title and content of
documentary).

1 injunction broadly removes most of the speech on the web site. By
2 redacting purely editorial and historical comments, the injunction is
3 not narrowly tailored. The Constitution will not tolerate such a
4 wholesale suppression of speech.

5 *CPC Int'l, Inc. v. Skippy Inc.*, 214 F.3d 456, 462 (4th Cir. 2000).

6 Precisely so here. Mayor Villaraigosa's speech is not commercial. He is not
7 selling goods and services. He is seeking to earn votes. And while Mr. Cloobek
8 may be in competition for those votes, trademark law will not assist him. *See*
9 *Bosley Med. Inst., Inc. v. Kremer*, 403 F.3d 672, 676-77 (9th Cir. 2005) (citing
10 *Prestonettes, Inc. v. Coty*, 264 U.S. 359, 368 (1924)) ("A trade-mark only gives the
11 right to prohibit the use of it so far as to protect the owner's good will against the
12 sale of another's product as his.") (emphasis removed).

13 **2. Compounding The Inapplicability Of Trademark Law To**
14 **Political Speech, The First Amendment Bars**
15 **Any Application Of The Lanham Act That Would Burden**
16 **Political Speech**

17 In attempting to prevent a political opponent from using a commonly-
18 employed phrase in a campaign for elective office, Mr. Cloobek's lawsuit
19 impermissibly burdens First Amendment protected speech.

20 "If speech is not 'purely commercial'—that is, if it does more than propose a
21 commercial transaction—then it is entitled to full First Amendment protection."
22 *Think Rubix, LLC*, 2022 WL at *3 (quoting *Mattel, Inc. v. MCA Recs., Inc.*, 296
23 F.3d 894, 906 (9th Cir. 2002) and *Hoffman v. Cap. Cities/ABC, Inc.*, 255 F.3d 1180,
24 1185-86 (9th Cir. 2001)). "Even if there is a risk of public confusion regarding the
25 two marks, the defendants' speech is nonetheless protected." *Ibid.* *See*
26 *also Taubman Co. v. Webfeats*, 319 F.3d 770, 775 (6th Cir. 2003) ("as per the
27 language of the Lanham Act, any expression embodying the use of a mark not 'in
28 connection with the sale . . . or advertising of any goods or services,' and not likely

1 to cause confusion, is outside the jurisdiction of the Lanham Act and necessarily
2 protected by the First Amendment”).

3 As if in contemplation of the very issue presented here, the Supreme Court in
4 *Buckley v. Valeo*, 424 U.S. 1, 14-15 (1976) (*per curium*) conclusively explained
5 why litigants such as Mr. Cloobek may not enlist the courts in an effort to muzzle
6 an opposing political candidate’s speech:

7 Discussion of public issues and debate on the qualifications of
8 candidates are integral to the operation of the system of government
9 established by our Constitution. The First Amendment affords the
10 broadest protection to such political expression in order ‘to assure
11 (the) unfettered interchange of ideas for the bringing about of political
12 and social changes desired by the people.’ *Roth v. United States*, 354
13 U.S. 476, 484 (1957). Although First Amendment protections are not
14 confined to ‘the exposition of ideas,’ *Winters v. New York*, 333 U.S.
15 507, 510 (1948), ‘there is practically universal agreement that a major
16 purpose of that Amendment was to protect the free discussion of
17 governmental affairs of course includ(ing) discussions of
18 candidates. . . .’ *Mills v. Alabama*, 384 U.S. 214, 218 (1966). This
19 no more than reflects our ‘profound national commitment to the
20 principle that debate on public issues should be uninhibited, robust,
21 and wide-open,’ *New York Times Co. v. Sullivan*, 376 U.S. 254, 270
22 (1964). In a republic where the people are sovereign, the ability of the
23 citizenry to make informed choices among candidates for office is
24 essential, for the identities of those who are elected will inevitably
25 shape the course that we follow as a nation. As the Court observed in
26 *Monitor Patriot Co. v. Roy*, 401 U.S. 265, 272 (1971), ‘it can hardly
27 be doubted that the constitutional guarantee has its fullest and most
28 urgent application precisely to the conduct of campaigns for political

office.’

C. **The Facts And Circumstances Here Underscore The Free Speech Limitations Presented By—And The Perverse Consequences That Would Attach To—Mr. Cloobek’s Claims If Not Promptly Dismissed**

As explained below, the incompatibility of Mr. Cloobek’s lawsuit with the First Amendment is underscored by (1) the frequent, historical uses of the “proven problem solver” phrase by and about so very many individuals seeking to become officeholders since at least as far back as 1989; (2) Mr. Cloobek’s bald admission, in the course of an attempt to hoard for himself more than 75 trademarks, that he seeks federal trademark protection for “[p]olitical campaign services, namely, promoting public awareness of [himself as] a candidate for public office” (RFJN. Ex. 1, at Page ID #14 [Trademark Application]); (3) the relief Mr. Cloobek’s complaint seeks, which would impede Mr. Villaraigosa’s ability to engage in political speech; (4) a practical assessment of how Mr. Cloobek’s actions seek to tilt the playing field in the 2026 gubernatorial election; and (5) the drain on a political opponent’s funds that the mere pendency of Mr. Cloobek’s lawsuit necessarily achieves.

1. **Frequent, Previous Uses Of The Phrase At Issue Underscore The Incompatibility Of Mr. Cloobek’s Lawsuit With The First Amendment**

The First Amendment protections offended by Mr. Cloobek’s lawsuit are especially pronounced given the frequent uses of the “proven problem solver” phrase in political contexts. Such circumstances render it inconceivable that, after the several decades in which politicians have used these words, Mr. Cloobek may invoke legal process to monopolize that phrase for exclusive use for himself and prevent its use by others in political contexts.

A cursory search demonstrates the frequent use, starting at least as far back as

1 1989, of Mr. Cloobek's purported mark. Even confined to the context of political
2 campaigns, candidates for decades have referred to themselves—or to others whom
3 they have endorsed—as “proven problem solvers.” The accompanying
4 Compendium (*see* RFJN, Ex. 3²), by memorializing instances in which the phrase
5 has been employed, highlights the phrase's seemingly ubiquitous use in political
6 contexts, as well as its increased frequency of usage the closer one comes to the
7 present.

8 We reference here just some of the phrase's early uses:

9	Statement Date	Statement	Citation
10 11 12 13 14 15 16	1 August 17, 1989	“He's the proven problem-solver whom governors and mayors have turned to with problems that resist conventional solutions.” – Citizens Committee for Ravitch (Richard Ravitch); Lieutenant Governor of New York	<i>Everybody knows Dick Ravitch would be the best mayor</i> , N.Y. TIMES, Aug. 17, 1989, at B11.
17 18 19 20 21 22 23	2 February 7, 1990	“Garamendi termed himself a ‘proven problem solver’ and said that if elected he will work on four major challenges he sees facing California's first elected insurance commissioner next January” – John Garamendi, US House Member, California	Kenneth Reich, <i>Garamendi Intends to Run for State Insurance Post</i> , L.A. TIMES, Feb. 7, 1990, at OCA3, A22.

24
25 ² We do not mean to suggest the Compendium has captured all such reported
26 uses of the phrase in a political context. There may be plenty more instances in
27 which the phrase was used and reported in articles that do not appear on-line at the
28 present, and there are surely multitudes of uses of the phrase in a political context
that have simply not been reported.

	Statement Date	Statement	Citation
3	August 6, 2001	““Kelly Logan is a proven problem solver who is committed to the DGS mission to continually improve its service to its customers’” – Tom Ridge, 43 rd Governor of Pennsylvania	Press Release, <i>Pennsylvania Governor Ridge Nominates Kelly Logan as Secretary of General Services</i> , PR NEWSWIRE, Aug. 6, 2001.
4	December 20, 2001	“Harold is a proven problem solver.” – Roy Blunt, US Senator, Missouri	Roy Blunt, Member of U.S. House Representatives for Missouri, <i>Harold Bengsch Awarded 2001 Humanitarian of the Year</i> (December 20, 2001), CONGRESSIONAL RECORD: PROCEEDINGS AND DEBATES OF THE 107 TH CONGRESS, FIRST SESSION, at E2387.
5	February 20, 2002	““There’s no denying Tennessee has problems and we need a proven problem-solver to get us out of the mess and back on track’” – Bart Gordon, US House Member, Tennessee	Tom Humphrey, <i>U.S. Rep. Gordon Endorses Bredesen: [Final Edition]</i> , KNOXVILLE NEWS-SENTINEL, at B2, Feb. 20, 2002.
6	September 8, 2003	““. . . Peter is a proven problem-solver who can help save jobs and create more jobs.”” – Peter Ueberroth, President of the United States Olympic Committee (via campaign materials)	Scott Martelle, <i>THE STATE / THE RECALL CAMPAIGN; AD WATCH: Peter V. Ueberroth; Peter Ueberroth’s Campaign Has Released Its First Television Advertisement, a 30-second Spot that Campaign Officials Say Will Begin Airing Statewide Today. The Campaign Would Not Disclose How Much It Will</i>

1	Statement Date	Statement	Citation
2			<i>Spend on the</i>
3			<i>Advertisement.: [HOME</i>
4			<i>EDITION], L.A. TIMES, at</i>
5			<i>A16, Sept. 8, 2003.</i>

6 **2. Mr. Cloobek’s Trademark Application Reveals The True**
7 **Purpose Of The Protection He Seeks: Promoting Public**
8 **Awareness Of Himself As A Candidate For Public Office**

9 The First Amendment violation invited by Mr. Cloobek’s lawsuit has its
10 origin in his trademark application—one of more than 75 applications he filed for
11 myriad and, in many instances, commonplace phrases (*see* RFJN, Ex. 2 [Am.
12 Answer] at Ex. 1 [List of Trademark Applications])—which brazenly reveals his
13 intention to procure federal protection for the purpose of:

14 Political campaign services, namely, promoting public awareness of a
15 candidate for public office; providing online information regarding
16 political issues; . . . providing a website that features political
17 information from a candidate for political office in regards to the
18 candidate’s views on political issues. (RFJN, Ex. 1, at Page ID #14
19 [Trademark Application].)

20 **3. The Relief Sought By Mr. Cloobek Reveals The Extent Of**
21 **The First Amendment Violation He Invites In Attempting To**
22 **Muzzle Mr. Villaraigosa’s Political Speech**

23 Translated from legalese³, Mr. Cloobek quite literally seeks from this Court

24
25 ³ Mr. Cloobek’s complaint’s “Prayer for Relief” seeks, among other remedies:

- 26 • “[e]ntry of an order holding [Mr. Villaraigosa and his campaign] liable
- 27 for infringement of [Mr. Cloobek’s ‘I AM A PROVEN PROBLEM
- 28 SOLVER’] ‘Senior Mark’” (RFJN, Ex. 1, ¶1, p. 9, ¶A);
- “a preliminary and permanent” order “enjoin[ing] and restrain[ing]” r.

1 nothing less than:

2 • A ruling that Mr. Villaraigosa and his campaign have violated federal
3 trademark law by Mr. Villaraigosa's use of the phrase PROVEN PROBLEM
4 SOLVER;

5 • A restraint against Mr. Villaraigosa and his campaign from using, in the
6 future, the phrase PROVEN PROBLEM SOLVER or similar language;

7 • A requirement that Mr. Villaraigosa and his campaign file a written
8 report under oath describing compliance by Mr. Villaraigosa and his campaign with
9 the foregoing;

10 • ordering the destruction by Mr. Villaraigosa and his campaign of all
11 manner of paper and electronic materials; and

12
13 Villaraigosa and his campaign from "[u]sing any of [Mr. Cloobek's]
14 trademarks or any other trademark that is confusingly similar" (*id.*
p. 9, ¶B);

15 • "[e]ntry of an order requiring" Mr. Villaraigosa and his campaign "to
16 file with this Court and serve upon [Mr. Cloobek] . . . a written report
17 under oath describing in detail the manner and form in which [Mr.
18 Villaraigosa and his campaign] have complied with the injunction,
including ceasing all use of [Mr. Cloobek's] Senior Mark or the
19 Infringing Mark [*i.e.*, 'PROVEN PROBLEM SOLVER'] and removing
all images of [Mr. Cloobek's] Senior Mark or the Infringing Mark
from websites controlled by [Mr. Villaraigosa and his campaign]" (*id.*
¶2, p. 9, ¶C);

20 • "[e]ntry of an order requiring" Mr. Villaraigosa and his campaign "to
21 deliver up for destruction all infringing materials, including all storage
22 media, Internet webpages/scripts/html code, advertisements, brochures,
current inventory of products, listings of services, articles, packages,
23 wrappers, products, displays, labels, signs, vehicle displays or signs,
circulars, kits, packaging, letterhead, business cards, promotional items
24 . . . that contain infringing copies of [Mr. Cloobek's] Senior Mark (*id.*
pp. 9-10, ¶D); and

25 • "[a]n accounting against" Mr. Villaraigosa and his campaign, "and an
26 award of monetary relief to [Mr. Cloobek] in an amount to be fixed by
the Court in its discretion, including . . . [a]ll actual, compensatory,
27 consequential, and other damages, including pre- and post-judgment
interest thereon at the highest lawful rate, suffered as a result of [Mr.
28 Villaraigosa and his campaign's] trademark infringement." (*Id.* p. 10,
¶E.)

1 • compelling Mr. Villaraigosa and his campaign to pay monetary
2 damages to Mr. Cloobek.

3 Positing a scenario in which such relief is granted more fully reveals the
4 scope of the First Amendment violations Mr. Cloobek invites: under Mr.
5 Cloobek’s urged scenario, Mr. Villaraigosa would be violating a court order by
6 describing himself as a “proven problem solver” in a press conference . . . in
7 campaign literature . . . in response to a journalist’s questions . . . or in a campaign
8 debate.

9 To such draconian requests, Mr. Villaraigosa responds: *Not in this country.*
10 *Not under our First Amendment—no matter the bullying or wealth used in an*
11 *attempt to silence a candidate for elected office. And not in keeping with anything I*
12 *have witnessed during my more than 30 years of public service—including as Mayor*
13 *of Los Angeles and as Speaker of the Assembly.*

14 **4. Mr. Cloobek Seeks To Tilt An Election In His Favor By**
15 **Stifling Debate And Disguising The Truth About Which**
16 **Candidate Has A Record Of Proven Problem Solving**

17 Mr. Cloobek’s lawsuit and the relief it seeks reveal, as a practical matter, an
18 effort to tilt the 2026 gubernatorial election in his favor.

19 Procuring legal recognition—and court enforcement—of a trademark
20 enabling him to identify and publicize himself⁴ as the sole “proven problem solver”
21 among the 2026 gubernatorial race contestants would help Mr. Cloobek inoculate
22 against the renewal of public controversies that have dogged him. *See* RFJN, Exs.
23 4-11. This would be anathema to a robust and uncensored public debate over all
24 candidates’ qualifications, including such legitimate topics as:

25 _____
26 ⁴ The filing of this litigation promptly generated press attention (*see e.g.*, RFJN,
27 Ex. 12 [“Cloobek sues Villaraigosa over use of the phrase ‘proven problem
28 solver’,” *Los Angeles Times*, April 30, 2025]) associating Mr. Cloobek with the
phrase “proven problem solver.”

- 1 • whether Mr. Cloobek is a problem creator (not solver), as reflected in
2 litigation filings associating him with problems of a personal nature (*see ibid.*⁵); and
- 3 • whether Mr. Villaraigosa—in stark contrast to the foregoing—has
4 proven himself a problem solver in confronting preexisting societal problems—such
5 as rising housing and living costs, joblessness, homelessness, crime, and
6 education—throughout his tenure as a public servant, including as Los Angeles
7 Mayor and as Speaker of the State Assembly.

8 **5. Mr. Cloobek Seeks By These Proceedings To Force A Drain**
9 **On His Political Opponent’s Campaign Funds**

10 Mr. Cloobek’s actions have and will continue to force a drain on Mr.
11 Villaraigosa’s campaign coffers. No cynicism is required to recognize that in order

12 _____
13 ⁵ In connection with California’s 2026 gubernatorial election, it would—and
14 should—be “fair game” for voters to understand and debate publicly-available
15 information concerning any candidate. To that end, no court should limit debate
16 among candidates over who has the greater claim to be considered a “proven
17 problem solver,” including with respect to litigation that may shed light on a
18 candidate’s judgment or temperament.

19 By way of an example of such litigation, on January 8, 2021, Mr. Cloobek
20 sued Stefanie Gurzanski and four other parties, contending (among other allegations
21 Mr. Cloobek personally verified in pleadings) that (i) after having met Ms.
22 Gurzanski the prior Summer, he had “given her property and experiences valued
23 well in excess of \$1,300,000,” based upon (ii) her alleged representations to him
24 “that she was a legitimate fashion model . . . and that she desired a lifelong
25 relationship with him,” only to (iii) later conclude that “she is a professional
26 pornographer” and “con artist.” (RFJN, Ex. 4 at ¶¶1, 4.)

27 For her part, Ms. Gurzanski averred that “[w]hen she woke up and realized
28 what he was, and attempted to escape Cloobek’s predatory grasp, he lashed out and
sought to punish Ms. Gurzanski [and] harassed, threatened, and abused Ms.
Gurzanski, and boasted that with his wealth, his ability to hire armies of lawyers,
and with his political contacts, he could bankrupt Ms. Gurzanski, her family and
friends, ruin her hopes to become a resident of the United States, and ultimately ruin
her life unless she came begging to Cloobek for forgiveness and was willing to do
his bidding.” (*See id.*, Ex. 5 at ¶1.)

1 to defend against this lawsuit—which Mr. Villaraigosa endeavors to do without
2 recourse to establishing a legal defense fund—he is being required to expend
3 precious campaign funds.⁶ By that measure, Mr. Cloobek has already succeeded.
4 Following resolution of this case, we intend to move for reimbursement of all fees
5 Mr. Villaraigosa and his campaign have been required to incur.

6 **IV. CONCLUSION**

7 For these reasons, Mr. Villaraigosa and his campaign respectfully request this
8 Motion be granted and Mr. Cloobek’s case be dismissed without leave to amend.
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14 ⁶ Mr. Cloobek has admitted that he seeks to force a compromise allowing him
15 the trademark protection he seeks over the contested phrase. On May 9, 2025, Mr.
16 Cloobek texted Mr. Villaraigosa that absent a “compr[om]ise” by which
17 “[Mr.]Villaraigosa agrees to switch his campaign slogan from ‘proven problem
18 solver’ to, simply, ‘problem solver’” that Mr. Cloobek was “prepared to fight [this
matter] to the Supreme Court of the United States ‘[w]hich has been my consistent
business practice for decades upon decades.’” (RFJN, Ex. 2 at ¶2.)

19 There is ample reason to take Mr. Cloobek at his word in so describing his
20 “business practice.” In pursuing his claims against a former paramour (*see* above at
21 fn. 5), after having allegedly “boasted that with his wealth, his ability to hire armies
22 of lawyers, and with his political contacts, he could bankrupt [the paramour]” (*id.*,
23 Ex. 5 at ¶1), Mr. Cloobek filed three lawsuits against her (one state, two federal);
24 unsuccessfully petitioned for appellate writ relief; and noticed an appeal before the
25 state Court of Appeal. (*See id.*, Exs. 6, 8-11 [Dockets for (i) *Cloobek v. Gurzanski*,
26 Los Angeles Superior Court, Case No. 21STCV00753, commenced Jan. 8, 2021; (ii)
Cloobek v. Gurzanski, Case No. 2:21-cv-02306-FLA-DFM (C.D. Cal.),
27 commenced March 16, 2021; (iii) *Gurzanski v. Cloobek*, Case No. B315025,
28 commenced by Mr. Cloobek, August 23, 2021; (iv) *Cloobek v. Sup. Ct. of Los*
Angeles Cty, Case No. B314752, commenced Sept. 2, 2021; and (v) *Cloobek v.*
Gurzanski, Case No. 2:21-cv-08212-GW-SP (C.D. Cal.), commenced Oct. 15,
2021].)

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DATED: June 4, 2025

ELLIS GEORGE LLP
Eric M. George
Keith J. Wesley
Christopher W. Arledge

By: s/ Eric M. George
Eric M. George
Attorney for Defendants and
Counterclaimants Antonio R. Villaraigosa
and Antonio Villaraigosa for Governor
2026

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☒ complies with the word limit of L.R. 11-6.1.

☐ complies with the word limit set by court order dated _____.

ELLIS GEORGE LLP
Eric M. George
Keith J. Wesley
Christopher W. Arledge

By: s/ Eric M. George
Eric M. George
Attorney for Defendants and
Counterclaimants Antonio R. Villaraigosa
and Antonio Villaraigosa for Governor
2026