

the United States Marshal at the Governor's Mansion, 1010 Colorado, Austin, Texas, 78701 or wherever the Governor may be **located**.

3. RICHARD B. CHENEY is a citizen and inhabitant of the State of Texas and the Republican nominee for Vice-President of the United States. A request is made that the summons be delivered by the United States Marshal at his residence, 1218 Euclid Avenue, Highland Park, Texas 75205, or wherever Mr. CHENEY may be located.

4. ELTON BOMER is the Texas Secretary of State and the chief election officer in the State. A request is made that the summons be delivered by the United States Marshal at the Secretary of State Office at **1019 Brazos**, Austin, Texas 78701, or wherever the Secretary may be located.

5. Plaintiffs do not yet know the true names and capacities of the official Texas Electors who will cast their votes for President and Vice-President in the Electoral College. Plaintiffs will amend to allege their **true** names and capacities when they are known.

II. JURISDICTION

6. This Court has jurisdiction pursuant to 28 U.S.C. 133 1 as this complaint raises a serious and urgent federal question arising **from** the Constitution of the United States, Article II, Section 1, Clause³~~1~~ and the Twelfth Amendment.

III. VENUE

7. This Court has venue pursuant to 28 U.S.C. 1391(b)(1) and (2) as Dallas County is Defendant CHENEY'S place of inhabitancy and a substantial part of the events or omissions giving rise to the complaint occurred within the Dallas Division of the Northern District of Texas.

III. FACTS

8. On November 7, 2000 Plaintiffs and almost 100 million citizens of the United States cast their votes in the general election.

9. In Texas, Governor GEORGE W. BUSH and RICHARD B. CHENEY received the most votes for President and Vice-President.

10. Neither Governor BUSH nor Vice-President Gore captured the majority of electoral votes. Ongoing lawsuits have contested the returns in Florida.

11. On December 18, 2000 the 32 Texas Electors are scheduled to cast **all** 32 of the State's electoral votes for Governor BUSH and Mr. CHENEY in the Electoral College.

12. However, the United States Constitution mandates that two individuals cannot inhabit the same state and be elected to the nation's two highest offices. The **Twelfth** Amendment states:

The Electors shall meet in their respective states,
and vote by ballot for President and Vice-President,
one **of whom, at least, shall not be an inhabitant of
the same state with themselves** (emphasis added)

13. In or about November 1995, Mr. CHENEY purchased his primary residence in Highland Park, Texas began his employment as President and CEO of Halliburton Energy Services, Inc. He has continued to inhabit Texas through the present date.

14. Plaintiffs request that this Honorable Court take judicial notice under Rule 20 1, Federal Rules of Evidence, of the following 20 facts that conclusively show that Mr. CHENEY has been an inhabitant of Texas for the past five years and was an inhabitant of Texas on November 7, 2000:

A) **He purchased his primary residence at 3812 Euclid Avenue, Highland Park,** Texas, appraised in 2000 for \$1,663,270.00, on November 3, 1995.

B) **He inhabited his Highland Park, Texas residence for the last five years.**

C) He had **not** moved to **another primary** residence.

D) He had **not** stopped inhabiting his primary Texas residence.

E) He had **not** listed his Texas residence for sale by November 7, 2000.

F) He had not rented his Texas residence, boarded it up, or vacated it.

G) **He paid real estate taxes since 1995 to the City of Highland Park,** Dallas County, Dallas County Community College, Highland Park I.S.D. and Parkland Hospital in Dallas since he purchased the residence in Highland Park in 1995.

H) **He voted at least twice in Precinct 1227 in Highland Park,** Texas since 1995.

He even applied for his Texas voting privileges almost one-half year before his wife **Lynne** applied to vote in Texas.

T) **He worked at 500 North Akard Street in downtown Dallas** as the President and CEO of Halliburton Company (and related companies) **from** 1995 through July 2000, and only quit to campaign to be Vice-President.

J) **He continuously held a Texas driver's license listing a Dallas address** as his address.

K) **He changed his personal records at the Texas Department of Public Safety** on February 22, 2000 and again listed his Dallas address.

L) **He filed his federal income tax returns listing himself as a Texas resident.**

M) He did **not** pay any other state's income **tax.**

N) **He received his mail in Dallas.**

O) **He registered his automobiles in Texas. He paid taxes on them in Dallas County.**

P) **He listed a Dallas address on Federal Election Commission forms** in March, 1999 when **he** donated money to the Bush Presidential Exploratory Committee.

Q) **He listed a Dallas address in the annual report** of Brown & Root Holdings, Inc. and other corporation's official records between 1996 and 2000.

R) **He was treated by Texas doctors,** including a cardiologist in Houston.

S) **He banked in Dallas.**

T) He had **not** abandoned his Texas homestead exemption.

15. **Governor BUSH** is also an inhabitant of the State of Texas. His primary residence is **the** Governor's Mansion in Austin. **He** owns a second home in Crawford, Texas.

16. Beginning in 1999, Mr. CHENEY served **as a** key advisor to Governor Bush.

In April, 2000 he began serving as chairman of **the** Governor's vice-presidential search committee.

17. On July 3, 2000 during a three hour meeting at the Governor's ranch, "Bush again asked Cheney if would consider the vice presidency. This time Cheney said **he** would consider it," according to *The Washington Post* (page **one** article, July 25, 2000).

18. On July 19, 2000 Mr. CHENEY told his board of directors at **Halliburton** that he had accepted the vice-presidential offer.

19. On July 20, 2000 "**Cheney flew to Wyoming to switch his voter registration. He took that step, designed to avoid a constitutional obstacle to a ticket in which the presidential and vice presidential nominees are from the same state,** without informing the Bush campaign, (a Bush campaign director Karen) Hughes said," according to *The Washington Post* (July 25, 2000).

20. Mr. CHENEY then just as quickly flew back to his home in Texas.

21. On Tuesday, July 25, 2000 (6:22 a.m.) Governor BUSH publically offered him the job.
22. On Monday, July 31, 2000 the party's convention began in Philadelphia.
23. Immediately **after** the convention, Mr. CHENEY traveled constantly to campaign.
24. He did not permanently inhabit Wyoming **after** he registered to vote there in July.
25. Mr. CHENEY did return to Wyoming to campaign and to vote in the election, however.
26. On November 7, 2000 immediately **after** voting, Mr. CHENEY flew back to his true home in Texas **to** watch **the** election results.
27. On November 10, 2000 a similar lawsuit was filed against Mr. CHENEY and Gov. Bush in U.S. District Court in Florida, No. 00-9010, by Lawrence Caplan.
28. On November 16, 2000 (this past Thursday), **after** receiving his summons and presumably reading about the lawsuit in the press, Mr. Cheney suddenly listed his Texas residence for sale.
29. In a Sunday, November 19, 2000 *Dallas Morning News* article about the **Caplan** lawsuit, Mr. CHENEY' s spokesperson called it "nonsense" since he owned a second home in Wyoming, had listed the Texas residence on November 16th, registered to vote in Wyoming on July 21st, and had surrendered his Texas driver's license and auto registration (dates for the latter were not given),
30. The Bush-Cheney ticket continually criticized their opponents and President Clinton for not obeying laws or appearing to evade them. All candidates stated that they wished to participate in a legal and fair election. Whoever wins this extraordinary election will have to swear to preserve, protect, and defend the Constitution and the nation's laws.

FIRST CLAIM FOR RELIEF

Declaratory Judgment

3 I. Plaintiffs incorporate paragraphs 8 through 30 of this Complaint as **if fully set forth herein.**

32. This Claim is brought pursuant to the Uniform Declaratory Judgments Act, TEX. CIV. PRACT. & REM. CODE, § 37.001 et seq. to construe the Constitution of the United States.

33. Defendant CHENEY has wrongfully stated that he was an inhabitant of Wyoming on election day solely to defeat and evade the constitutional requirements for national office.

34. Both his last minute change of voting registration and his claim of property ownership were cynical but transparent attempts to make it appear that Mr. CHENEY had somehow transformed himself into an “inhabitant” of Wyoming so that he could legally be elected.

35. However, based on the above recitation of facts, it is clear that Mr. CHENEY is not an inhabitant of Wyoming.

36. He has **not** inhabited, permanently and continuously, any city in Wyoming since moving to Dallas in 1995.

37. Coincidentally, Mr. CHENEY also owned a home in Jackson Hole, Wyoming, a ski resort with many “second homes” and even “third homes” occasionally used or rented out by wealthy individuals or corporations. He claims this somehow proves he is an “inhabitant” of Wyoming.

38. Since November 1995, Mr. CHENEY has spent very little time in Jackson Hole, other than vacationing or temporarily staying there.

39. He has no employment, income, or any other reason to inhabit Wyoming, especially in the middle of this hotly contested election for national **office**.

40. Before the campaign, he ran a multibillion dollar oil service company from Dallas.

41. Mr. CHENEY clearly would not have gone to the trouble and expense of changing his voting registration if he did not believe he had to to get elected. He voted rarely -- only twice out of the 18 times he could have voted as a Texas inhabitant. His flying back and forth just to vote in

Wyoming on November 7th was unprecedented,

42. More importantly, Mr. Cheney had not given up his Texas inhabitancy as of November 7, 2000. He had no reason to outside of constitutional concerns. As of November 7, 2000 he had not moved out of his residence in Highland Park. He may never actually sell it. He may revoke the listing. He might not move if he is defeated. He has certainly not given up the generous Texas homestead exemption on his mansion. He still did not have to pay any state income tax on his hefty income and over \$20,000,000.00 retirement package.

43. Mr. CHENEY does not even legally qualify as a “resident” of Wyoming under its laws. According to Section 23-1-102(a)(ix), W. S. 1977:

“Resident” means a United States citizen **who has been a resident of Wyoming for not less than one (1) year and who has not claimed residency elsewhere for any purpose during that one (1) year period immediately preceding** the date of application for a license, permit, or certificate.” (emphasis added)

Further, according to the Wyoming Election Code, Section 22-1-102 (xxx), W.S. 1999:

“Residence” is the place of a person’s **actual** habitation.”

44. Finally, **Lynne** Cheney, his wife for the last 36 years, had neither registered to vote in Wyoming, nor joined her husband in his ruse in any **way** whatsoever.

45. If Mr. CHENEY is successful in his magical overnight transformation from Texan to Wyomingian, any wealthy person **from** New York can merely apply to vote, cite his house in Maui, then prove he was a Hawaii inhabitant by reminding the courts of Mr. CHENEY’s charade.

46. The very Bush-Cheney campaign, and possible victory, was based on the public’s need for national leaders who obeyed the law, were honest, and had integrity,

47. The Bush-Cheney campaign continually lambasted its opponents' conduct and blasted the conduct of President Clinton for his alleged obstruction of justice.

48. If this Honorable Court takes no action in this matter, the Constitutional requirements for the presidential election will have been arrogantly and cynically **trampled** on.

49. Unless this Court grants this Claim for Relief, the 2000 presidential election will be unconstitutional and illegal.

50. If Governor BUSH and Mr. CHENEY go on to win the election, they will have only done so by denying Plaintiffs of their constitutional rights.

51. If Governor BUSH is elected, he will have to swear to uphold and defend the Constitution at his inauguration in an oath administered by the Chief Justice of the Supreme Court.

52. Unless this Court grants Plaintiffs Claim, the national interest will have been severely damaged. As the Bush campaign noted by releasing this statement by retired Gen. H. Norman Schwarzkopf about the Florida ballot count, if this happens "it will be a very sad day in our country."

53. Plaintiffs therefore request that this Honorable Court uphold the United States Constitution, Article II, Section I, Clause 3 and the **Twelfth** Amendment and issue a judgment declaring that:

A) Governor BUSH was an "**inhabitant**" of the State of Texas on November 7, 2000;

B) Mr. CHENEY was an "**inhabitant**" of the State of Texas on November 7, 2000;

C) Both candidates were therefore "inhabitants" of Texas, the same state as the Texas Electors who will be voting for them in the Electoral College, on November 7, 2000;

D) The Constitution will be violated when the Texas Electors cast their ballots for Texas Governor BUSH and Texan CHENEY on December 18, 2000; and therefore

E) The 32 electoral votes from Texas may not be voted in favor of either Governor BUSH

or Mr. CHENEY in the Electoral College on December 18, 2000 or at any other time.

54. Plaintiffs have been required to retain the services of counsel to prosecute this action and have incurred the costs of suit herein. Plaintiffs request an award for their costs and reasonable and necessary attorney's fees as are equitable and just, as well as for **further** relief that may be necessary or proper, as provided by said Act.(§§ 37.009 and 37.011).

SECOND CLAIM FOR RELIEF

Application for Emergency Injunctive Relief

55. Paragraphs 8 through 30, inclusive, of this Complaint are incorporated in the Second Claim for Relief as if fully set forth herein.

56. Plaintiffs have a right, as do all citizens of the United States, for the election for President and Vice-President in the Electoral College to be held in strict accordance with the Constitution of the United States and all laws governing the conduct of elections.

57. Due to the misrepresentation employed by Defendant CHENEY, and the **fact** that both candidates are inhabitants of Texas, the 2000 election will fail the requirements set forth in the Constitution if its 32 electoral votes are permitted to be voted in favor of Governor BUSH and Mr. CHENEY on December 18, 2000 or at any other time.

58. The counting of ballots in this election has been an extraordinary process, Both candidates have indicated their intent to abide by all governing rules and procedures to insure that the election results are reliable and legal.

59. If the 32 Electors are permitted to cast their votes in the Electoral College in favor of Governor BUSH and Mr. CHENEY **on December 18, 2000**, Plaintiffs and all other American citizens will suffer immediate and irreparable injury by the loss of valuable and unique rights guaranteed by

the United States Constitution and its Amendments,

60. Furthermore, if the 32 Electors are permitted to cast their votes in the Electoral College in favor of Defendants Governor BUSH and Mr. CHENEY, the next President and Vice-President of the United States will be unconstitutionally and illegally elected.

61. Accordingly, as shown by the affidavit of Plaintiff, Stephen E. Jones, Plaintiff does not have an adequate remedy at law and can only be protected by the issuance of a temporary restraining order restraining Defendants, their **officers**, agents, employees, or attorneys **from**:

A) Permitting any of the 32 Electors to cast any of the 32 electoral votes held by Texas in favor of either Governor BUSH or Mr. CHENEY in the Electoral College on December 18, 2000 on the Certificate of Vote or on any other ballot form;

B) Certifying to the United States Congress, Texas Secretary of State, or to any other person, agency, media, or entity that any of the 32 electoral votes can be cast in favor of Governor BUSH and Mr. CHENEY;

C) Certifying to the United States Congress, Texas Secretary of State, or to any other person, agency, media, or entity that any of the 32 electoral. votes were cast in favor of Governor BUSH or Mr. CHENEY.

62. Plaintiff requests that, due to the extraordinary financial and political status of Defendants and the Republican Party, the conduct of the defendants giving rise to this complaint, the impossibility in assessing damages in this cause of action, and for reasons of equity, that a bond be waived by the Court.

63. Plaintiff requests that due to the extraordinary facts, compelling national interest, and legal deadlines, that upon after **an** expedited hearing, consolidated with the hearing **on** the preliminary

injunction, that the preliminary injunction be made permanent.

WHEREFORE, PREMISES CONSIDERED, request is respectfully made that Defendants be cited to appear and answer herein, and that:

1) The Court issue a temporary restraining order, *ex parte*, enjoining Defendants, their officers, agents, employees, or attorneys from:

A) Permitting any of the 32 Electors to cast any of the 32 electoral votes held by Texas in favor of either Governor BUSH or Mr. CHENEY in the Electoral College on December 18, 2000 on the Certificate of Vote or on any other ballot form;

B) Certifying to the United States Congress, Texas Secretary of State, or to any other person, agency, media, or entity that any of the 32 electoral votes can be cast in favor of Governor BUSH and Mr. CHENEY;

C) Certifying to the United States Congress, Texas Secretary of State, or to any other person, agency, media, or entity that any of the 32 electoral votes were cast in favor of Governor Bush or Mr. Cheney.

2) That the hearing on the preliminary injunction be set at the earliest possible date on the Court's calendar and be consolidated with the final trial on the merits;

3) That upon final hearing, the preliminary injunction be made permanent;

4) That upon final hearing, Plaintiffs recovers judgment declaring that on November 7, 2000:

A) Governor BUSH was an "inhabitant" of the State of Texas;

B) Mr. CHENEY was an "inhabitant" of the State of Texas;

C) Both candidates were therefore inhabitants of Texas, the same state as the Texas Electors who will be voting for them in the Electoral College;

D) The Twelfth Amendment was violated since Governor BUSH and Mr. CHENEY;

were inhabitants of the same state as the Texas Electors; and

E) None of the 32 electoral votes from Texas may be voted in favor of either Governor BUSH or Mr. CHENEY in the Electoral College.

5) Upon final hearing, that Plaintiffs recover judgment against Defendants for their reasonable and necessary attorney's fees and costs and such other and further relief as the Court may deem appropriate.

DATED: This 20 day of November, 2000.

Respectfully submitted,

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