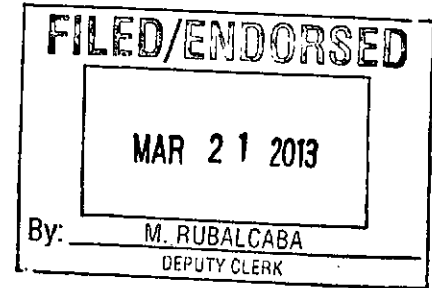


**BOUTIN JONES INC.**

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Attorneys for Defendants The California State Grange,  
John Luvaas, Gerald Chernoff, and Damian Parr.



**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SACRAMENTO**

THE NATIONAL GRANGE OF THE  
ORDER OF PATRONS OF  
HUSBANDRY, a Washington, D.C., non-  
profit corporation,

Plaintiff,

vs.

THE CALIFORNIA STATE GRANGE, a  
California nonprofit corporation, and  
ROBERT McFARLAND, JOHN  
LUVAS, GERALD CHERNOFF and  
DAMIAN PARR,

Defendants.

Case No.: 34-2012-00130439

**DEFENDANTS' JOINDER TO ROBERT  
McFARLAND'S MOTION FOR  
PRELIMINARY INJUNCTION**

Date: March 29, 2013

Time: 2:00 p.m.

Dept.: 53

Date Action Filed: 10/01/12

Defendants, The California State Grange ("California Grange"), John Luvaas, Gerald  
Chernoff, and Damian Parr, (collectively, "Defendants") submit the following Joinder to Robert  
McFarland's Motion for Preliminary Injunction.

**DEFENDANTS' JOINDER TO ROBERT McFARLAND'S MOTION FOR PRELIMINARY  
INJUNCTION**

**JOINDER ARGUMENTS**

Defendants join Robert McFarland in requesting that a preliminary injunction issue to prevent National Grange from proceeding with a "Grange Trial" against McFarland pending a resolution of the merits of this lawsuit at trial. Defendants further request that National Grange be enjoined, pending trial, from holding *any* "Grange Trials" against any officer, director, or member of the California Grange Executive Committee. National Grange has already brought defendant and California Grange director Jon Luvaas up on charges, and a "Grange Trial," similar in scope and procedure to what is at issue in this motion, will be held soon. All internal "Grange Trials" which relate to the subject matter of the pleadings filed in this action should be enjoined pending trial. Otherwise, there exists the very real risk of multiple, inconsistent and expensive proceedings.

**A. The threatened "Grange Trial" against McFarland deals with the same subject matter as National Grange's complaint and failed preliminary injunction motion.**

National Grange's First and Second Causes of Action in its complaint against Defendants are for declaratory judgment and injunction. National Grange sued Defendants because California Grange refused to accept the suspension of McFarland. This is the very suspension that is now the subject of the impending "Grange Trial."

National Grange's claims in this action rely on the interpretation of National Grange's bylaws and articles of incorporation, the laws of the National Grange, California Grange's bylaws and articles of incorporation, and California law. National Grange will seek an adjudication of these same issues, relying on the same authorities, at McFarland's "Grange Trial." Moreover, the same facts and witnesses involved in the preliminary injunction proceedings will also be involved in McFarland's "Grange Trial."

Contrary to National Grange's assertion, the complaint in this action does not seek to restrict the court from adjudicating the merits of any charges that National Grange may bring against McFarland or any officer/director of California Grange. National Grange did *try* to limit the court's involvement in this regard (see National Grange's Motion for Preliminary Injunction, filed on October 1, 2012, at page 10, line ). However, National Grange's self-serving statement to this effect cannot be, and was not, binding on the court. Indeed, if the court had granted National Grange's motion for

1 preliminary injunction, it would have necessarily found that National Grange established a probability  
2 that McFarland's suspension was proper.

3 As Judge Lonke aptly noted in his ruling denying the motion, National Grange's complaint  
4 necessarily seeks a ruling on the merits of the suspension. Quoting from Judge Loncke's October 17,  
5 2012 Minute Order denying the preliminary injunction ("Order"), National Grange, through its  
6 complaint, seeks to "seize the assets, terminate the President, and take complete control of the  
7 California Grange..." Moreover, the Order recognizes that National Grange's preliminary injunction  
8 motion sought "to restrain McFarland from acting in his capacity as President, despite the vote of the  
9 California Executive Committee to the contrary, and to prevent him from communicating with his  
10 membership." Judge Loncke denied National Grange's motion, finding the record insufficient to  
11 grant National Grange the relief it requested. The consequence of the ruling was that National Grange  
12 must wait for a trial on the merits to adjudicate all the issues raised by its motion and complaint.

13 The "Grange Trial" is simply an attempt to make an end run around the court's denial of  
14 National Grange's motion for preliminary injunction. The status quo, as ordered by this court, must  
15 be preserved until such time as a trial on the merits is resolved in state court. National Grange picked  
16 this forum, and it must accept the benefits and the burdens attendant with its choice.

17 **B. Multiple "Grange Trials" are likely.**

18 McFarland is not the only party in this case who is forced to contend with multiple  
19 proceedings related to the same subject matter. Jon Luvaas, defendant and a director of California  
20 Grange, is also facing a "Grange Trial." The charges brought against Mr. Luvaas, dated November 8,  
21 2012, deal with almost the identical issues raised by the complaint in this action and National  
22 Grange's preliminary injunction motion – that is – the alleged failure of California Grange and its  
23 officers to accept National Grange's suspensions of McFarland and the State Grange charter. It is  
24 reasonable to surmise that National Grange will continue to bring "Grange Trials" against named  
25 defendants in this action unless enjoined by the court.

26 **C. The *California Dental Ass'n* case is not controlling here.**

27 National Grange's continued reliance on *California Dental Ass'n v. American Dental Ass'n*  
28 (1979) 23 Cal.3d 346, remains misplaced. In that case, the California Dental Association

1 (“CDA”) sought an order compelling the American Dental Association (“ADA”) to comply with  
2 the ADA’s own bylaws which gave certain authority to the CDA to discipline CDA’s member  
3 dentists. The CDA sued seeking to compel the ADA to apply *its own* bylaws correctly for the  
4 resolution of a CDA member disciplinary procedure.

5 The question before the court was whether to intervene in a private organization’s private  
6 dispute. The court there ultimately *did* decide to intervene, but not before adopting a balance test  
7 to guide future courts in making similar determinations. Unlike National Grange here, the ADA  
8 did not file a complaint and seek injunctive relief *prior to* attempting to conduct an internal  
9 disciplinary trial against the state organization. CDA is, therefore, factually and procedurally  
10 unique as compared to the present dispute. CDA does not compel this court to abstain from  
11 enjoining all “Grange Trials” until after a state court trial on the merits.

12 **D. An injunction should issue here.**

13 The equities favor Defendants and McFarland. They should not be made to defend  
14 themselves through “Grange Trials” while this case, filed by National Grange, remains pending.  
15 Preservation of the status quo, following the court’s denial of National Grange’s motion for  
16 preliminary injunction, should be the paramount factor guiding this court’s decision. *Continental*  
17 *Baking Co. V. Katz* (1968) 68 Cal.2d. 212, 528; *Scripps Health v. Marin* (1999) 72 Cal. App. 4th 324,  
18 334 (The avowed purpose of a preliminary injunction is to preserve the status quo pending a trial on  
19 the merits).

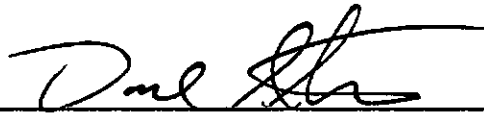
20 **CONCLUSION**

21 For all these reasons, and for the reasons set forth in McFarland’s moving papers, Defendants  
22 join in the request for a preliminary injunction regarding McFarland’s “Grange Trial”, and further  
23 request that all “Grange Trials” be enjoined pending resolution of the merits at a trial before the  
24 superior court.

1 Dated: March, 21 2013

BOUTIN JONES INC.

2  
3 By:



Robert D. Swanson

Daniel S. Stouder

Attorneys for Defendants The California State  
Grange, John Luvaas, Gerald Chernoff, and  
Damian Parr.

**PROOF OF SERVICE**  
**[CCP §1013, 1013a]**

CASE: National Grange of the Order of Patrons of Husbandry vs. California State Grange  
COURT/CASE NO.: Sacramento County Superior Court Number 34-2012-00130439

The undersigned declares:

I am employed in the County of Sacramento, State of California. I am over the age of 18 years and not a party to the within action; I am employed by Boutin Jones Inc., 555 Capitol Mall, Suite 1500, Sacramento, California 95814-4603.

On this date I served the foregoing document described as:

**DEFENDANTS' JOINDER TO ROBERT McFARLAND'S MOTION FOR  
PRELIMINARY INJUNCTION**

on all parties in said action by causing a true copy thereof to be

- ☒ Transmitted via electronic mail before 5:00 p.m. on this date  
☒ Placed in a sealed envelope with postage thereon fully prepaid in the designated area for outgoing mail, ☐ sent certified mail, return receipt requested  
☐ Personally delivered by \_\_\_\_\_ to the address set forth below  
☐ Delivered personally to the address set forth below  
☐ Sent Via Overnight Delivery by depositing in/at the appropriate facility for said service

addressed to the person(s) on whom it is to be served, whose name(s) and address(es) are listed below:

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Attorneys for Plaintiff

Attorneys for defendant Robert McFarland

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

EXECUTED on March 21, 2013 at Sacramento, California.

