

**IN THE COURT OF APPEAL  
OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT  
DIVISION THREE**

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**RIDA HAMIDA,**  
*Appellant/Petitioner,*

vs.

**THERESA BASS,** in her official capacity as Anaheim City Clerk;  
**BOB PAGE,** in his official capacity as Orange County  
Registrar of Voters,  
*Respondents.*

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On Appeal from a Judgment of the  
Superior Court of California, County of Orange  
The Honorable Nathan R. Scott, Department W-2  
Case No. 30-2022-01276435-CU-WM-CJC

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**CALIFORNIA ASSOCIATION OF CLERKS AND ELECTIONS  
OFFICIALS AND CALIFORNIA STATE ASSOCIATION OF  
COUNTIES AMICUS CURIAE BRIEF IN SUPPORT OF  
RESPONDENT BOB PAGE**

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## I. INTRODUCTION

This appeal presents the issue of what judicial review or remedies should be available for a candidate for municipal elected office whose nominating petition submitted at the close of the statutory deadline is found to have insufficient verified voter signatures to qualify for the election. Although the Petitioner did not appear on the ballot and the election has passed, she argues that the court should consider and decide the issue because the question is capable of repetition yet evading review. The Petitioner submits that the trial court erred in refusing to consider post-deadline extrinsic evidence of the genuineness of voter signatures on the nominating petition that were found by the Registrar of Voters (ROV) to not match the voter signature on registration documents on file with the ROV, even though the ROV is precluded from considering such extrinsic evidence in the signature verification process.

*Amici curiae* California Association of Clerks and Election Officials (CACEO) and California State Association of Counties (CSAC) urge this court to consider not just the circumstance of a single candidate for one city council seat, but the broader context of this issue as impacting elections for offices in California's 482 cities, approximately 2,244 independent special districts, 944 school districts, 73 community college districts and the work of ROVs in the state's 58 counties.

Given the short time between candidate filing deadlines for local elected offices and pre-election deadlines for publication and

mailing of sample ballots and voter information guides including all election contests, allowing consideration of extrinsic evidence in signature verification or post-verification judicial review would have adverse impact on the efficient, timely and orderly conduct of elections. By comparison, given that municipal office candidates have the statutory right to submit supplemental nominating petitions to cure insufficient valid signatures in their initial filing, the impact on candidates' or voters' Constitutional rights is slight.

In 2022, Orange County conducted a consolidated general election for 33 of its 34 cities, 27 independent special districts, 29 school districts, and 4 community college districts all in the same even-year statewide general election cycle<sup>1</sup>. Each local agency holds elections for some of its five or seven member governing bodies every two years for staggered four-year terms. For Orange County's 33 cities, this totaled 73 election contests that involved 243

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<sup>1</sup> Historically, federal, statewide and county elections were held in even-numbered years and local elections for municipalities, school districts and special districts were slated for even-numbered years. (Elec. Code §§ 1200-1202 (Statewide), 1300 – 1304 (Local).) Increasingly, for economic reasons to reduce the cost of elections for cities and districts, and in the interest of maximizing voter turnout, local elections have been consolidated with the statewide election calendar per Elections Code sections 10400 – 10418. By agreement between cities, districts and county Board of Supervisors, most local elections are conducted and canvassed by the county elections official. (Elec. Code § 10002.)



candidates, out of a total of 214 contests on the ballot overall<sup>2</sup>. Expanding the scope of judicial review for municipal office candidates to dispute the insufficiency of valid signatures on nominating petitions would unnecessarily invite chaos in the administration of local elections.

A statutory remedy, Elections Code section 10221, subd. (b), already exists to provide relief to municipal office candidates whose nominating petitions are found to be insufficient, by allowing them to file supplemental petitions to cure any deficiency in the number of valid signatures. However, Petitioner failed to avail herself of this remedy by filing her initial nominating petition on the last day of the filing deadline. Her lack of diligence should not be rewarded.

Petitioner's Opening Brief properly identified the appropriate legal test for evaluating state election regulations that impinge on voter and candidate Constitutional electoral rights (at p. 52), commonly referred to as the *Anderson-Burdick* framework<sup>3</sup>. However, Petitioner fails in her analysis of how that test should be applied to limitations on judicial review of signature verification of last-minute nominating petitions for municipal offices, as discussed below.

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<sup>2</sup> [Election Results Archives | OC Vote](https://ocvote.gov/data/election-results-archives)  
<https://ocvote.gov/data/election-results-archives> 2022 General Election [accessed 11/27/2023].

<sup>3</sup> *Anderson v. Celebrezze* (1983) 460 U.S. 780, and *Burdick v. Takushi* (1992) 504 U.S. 428.

For the reasons to be discussed at length, *Amici* California Association of Clerks and Elections Officials and the California State Association of Counties, in support of Respondent Bob Page, respectfully request this Court sustain the trial court order dated September 1, 2022, denying issuance of a writ of mandate (AA 208).

## **I. LAW AND ARGUMENT**

### **A. COMPARISON OF SIGNATURE VERIFICATION AT DIFFERENT STAGES IN THE ELECTION CYCLE**

Registered voter signature verification by County Registrars of Voters occurs at different stages in the elections cycle:

- Vote-by-Mail Ballot Envelope Signature Verification for determination of the outcome of the election.
- Initiative, Referendum or Recall Petition Signature Verification to qualify measures for future elections.

- Nominating Petitions for Elective Offices subject to Primary Elections<sup>4</sup>, and Nomination of Municipal Elected Officials for General Elections<sup>5</sup>.

Although exacting uniform statewide standards for verification of voter signatures at all the different stages of the elections cycle were adopted by the Secretary of State, (Cal. Code Regs., tit. 2 § 20960) in 2020, depending on the stage of the election cycle in which the signature verification is occurring, the purpose, process and timing of signature verification varies significantly as outlined in greater detail below. So too do the remedies and relative interests of candidates, measure proponents and voters vary in

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<sup>4</sup> Voter-nominated offices are defined in Elections Code section 359.5 as the Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, Insurance Commissioner, Member of the State Board of Equalization, United States Senator, Member of the United States House of Representatives, State Senator and Member of the Assembly. Nonpartisan offices are defined in Elections Code section 334 as judicial, school, county, and municipal offices, including the Superintendent of Public Instruction. Primary election nomination statutes do not apply to recall elections, the Presidential primary, nomination of officers of cities or counties whose charters provide a system for nominating candidates for those offices, nomination of officers for any district not formed for municipal purposes (i.e. special districts), nomination of officers for general law cities, or nomination of school district officers (Elect. Code § 8000). This brief will focus only on the processing of nominating petitions for the general election cycle.

<sup>5</sup> Candidates for municipal elective offices must submit nominating petitions and declarations of candidacy to qualify for the ballot per Elections Code sections 10220 – 10230. Although subject to the same filing deadlines to submit declarations of candidacy, candidates for elective offices for special districts, school districts, and community college districts have no requirement for nominating petitions.

relation to the state's interest in the conduct of timely and orderly elections. Understanding the differences is important for the resolution of this case.

1. VOTE-BY-MAIL BALLOT ENVELOPE SIGNATURE VERIFICATION

The verification of voter signatures on vote-by-mail (VBM) ballot envelopes is most critical to the democratic electoral process. In the 2022 General Election 830,162 (83.5%) of the 994,227 ballots cast in Orange County were VBM<sup>6</sup>. Statewide the percentage of VBM votes cast was 87.5%<sup>7</sup>. Every registered California voter is mailed a VBM ballot (Elec. Code §§ 3000.5, 3003, 3015) and has the option to vote by mail on or before election day or vote in person at their local polling place or vote center. The VBM ballot envelope signature verification process directly impacts the individual citizens' right to vote and the integrity of the outcome of the elections because it determines whether the ballot is being cast by an eligible voter so that the envelope will be opened and the ballot counted. The efficiency of the VBM ballot envelope signature verification process is aided by the individualized code on the official ballot return envelope that is mailed only to registered voters. The code electronically matches the envelope to the voter registration database containing signature images of voter

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<sup>6</sup> Statement of Vote, General Election (Nv. 8, 2022), p. 3 at <https://elections.cdn.sos.ca.gov/sov/2022-general/sov/complete.pdf> [as of Nov. 21, 2023].

<sup>7</sup> *Ibid.*

registration and drivers license documents for quick comparison and verification.

Since the adoption of Senate Bill 759 (Sen. Bill No. 759 (2017-2018 Reg. Sess.) § 2, effective September 17, 2018, voters' First and Fourteenth Amendment<sup>8</sup> and California Constitutional<sup>9</sup> rights to have their vote counted and to cure ballots disqualified because of signature errors or omissions are protected by statute, Elections Code section 3019. If during the 30-day post-election certification of results period, a discrepancy is found in the verification of ballot envelop signatures, voters are notified and given the chance to cure any defect of a missing or mismatched signature up to two days before the final certification of election results.

Once the signature is matched, the voter's choices on all the federal, state, county, city, school board and special district offices, and state or local propositions included on the consolidated elections ballot can be counted. Candidates or electors dissatisfied with the results of close elections can request a recount and/or file a challenge in court<sup>10</sup>.

## 2. INITIATIVE, REFERENDUM AND RECALL PETITIONS

In comparison to their interest in having their VBM ballot counted, the relationship of individual voter signatures on initiative,

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<sup>8</sup> *Moore v. Ogilvie*, (1969) 394 U.S. 814, 818; *Idaho Coalition United for Bears v. Cenarrussa*, (9th Cir. 2003) 342 F.3d 1073, 1077; *San Bernardino County Bd. of Supervisors v. Monell* (2023) 91 Cal.App.5th 1248, 1263.

<sup>9</sup> Cal. Const., art. I, §§ 3, 7 and 22; art. II, §§ 1, 2 and 2.5

<sup>10</sup> Elections Code §§ 16000 – 16940.

referendum or recall petitions to the qualification of a measure for a future election is more attenuated. Only a specified minimum number of verified voter signatures on petitions gathered by proponents are necessary to qualify initiative, referendum or recall measures for the ballot<sup>11</sup>. For petitions containing more than 500 signers, the determination that the threshold is met will most likely be made based on random samples of the total number of signatures<sup>12</sup>. Accordingly, each individual signature on a petition may never be examined or verified. Once the threshold is met or conclusively determined to be insufficient, verification of the remaining signatures stops<sup>13</sup>.

Paid or volunteer petition circulators approach potential signers without any requirement to only solicit or screen for qualified registered voters. Signers may be unaware of the signer's registration status within the jurisdiction relevant to a particular petition. They may mistakenly enter a post office box or other

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<sup>11</sup> The requisite minimum number of signatures to qualify state or general law county initiatives and referenda is expressed as a percentage of the number of voters for all candidates for Governor at the last gubernatorial election preceding the date the measure is entitled to begin circulation. For statewide statutory initiatives it is 5%, for Constitutional amendment initiatives it is 8% (Elec. Code § 9035). For county initiative or referendum measures the threshold is 10%. (Elec. Code §§ 9118 (initiative), 9144 (referendum).) For general law municipalities an initiative or referendum petition qualifies if signed by at least 10% of the registered voters in the jurisdiction. For recalls of statewide elected officials...[continue]

<sup>12</sup> Elections Code § 9030 (state); § 9115 (county initiatives).

<sup>13</sup> Elections Code § 9033 (state); § 9115 (b) (county initiatives).

mailing address rather than the residence address on their voter registration. Voters may sign petitions simply in support of having the measure on the ballot, whether or not they have yet made up their mind how to vote on the question. Voter signatories rely upon petition circulators and measure proponents to collect and submit sufficient verifiable signatures to qualify the measure for an election.

Proponents determine when to submit petitions within the allowed circulation period.<sup>14</sup> Generally, proponents anticipate that a significant percentage of signatures will likely not be qualified voters and submit a surplus well above the minimum, assuming some error rate of unregistered signatories, errors in entering residence or mailing addresses inconsistent with registration documents, clearly unmatched signatures, or signatories registered outside the relevant jurisdiction.

The verification process for initiative, referendum and recall petitions is more cumbersome than with VBM ballot envelopes because the name and address written on the petition by the voter must be deciphered and manually matched by election workers with registration documents in the electronic database. Multiple state and

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<sup>14</sup> 30 days for local ordinance referenda (Elec. Code §§ 9141 (b), 9144 (county); §§ 9235, 9237 (municipal); § 9340 (district); 90 days for referenda of state statutes (Elec. Code § 9014 (c)); 160 days for recalls of state officers (Cal. Const. Art. II, § 16 (a)); between 40 and 160 days for recall of local officers depending on the number of registered voters in the jurisdiction (Elec. Code § 11220); 180 days for initiatives (Elec. Code § 9014 (b) (statewide initiatives), Elec. Code § 9110 (county initiatives)).

local ballot measures may be submitted in the same election cycle. For example, in 2022, seven statewide propositions and nineteen local measures were on the ballot in Orange County, not counting those that may have been submitted but failed to qualify. Each had to be processed independently within 30 working days after submission of the petition.

The date of the election on the measure is determined *only after* the sufficiency of the petition is certified. The election date will be set at least 88 days after the call of the election but may be as much as two years until the next statewide general election thereafter<sup>15</sup>.

If a petition is found to be insufficient, measure proponents have the right to examine the petitions on file in each county ROV office to determine which signatures were disqualified and the reasons therefore. (Gov. Code § 7924.110, subd. (b)(2).) Writ of Mandate proceedings may be instituted to contest improper disqualifications. The standard for review of a writ of mandate to challenge a finding of insufficiency will be discussed in Section C, below.

### 3. NOMINATING PETITIONS

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<sup>15</sup> Elec. Code § 9215, subd. (b), § 1405 (county, municipal or district initiatives); § 9145 (county referenda); § 9241 (municipal referenda); § 9016, subd. (b) sets a minimum of 131 days between certification of the initiative petition and the next statewide general election for a state initiative. Cal. Const., art. II, § 9 subd. (c) governs the election date to be set for a state referendum.



In contrast to the review and certification period for initiative, referendum and recall petitions which occurs *before* the date for the election is set, nominating petitions and declarations of candidacy must be submitted within a short 25-to-30 day window of time (between 113 - 83 days<sup>16</sup>) before an already established primary or general election date<sup>17</sup>. Municipal office candidates can submit 50% more signatures than the required minimum of 20 to qualify as a candidate (Elec. Code § 10220). The signatures must then be

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<sup>16</sup> The standard nominating period is between 113 and 88 days before the date of the election. (Elec. Code § 8020, subd. (b) (direct primary candidates), §10220 & § 10224 (municipal), § 10510 (a) (district), § 10603 (a) (schools)). If an incumbent holds office and fails to declare candidacy for re-election by the 88<sup>th</sup> day, the nomination period is extended an additional 5 days to the 83<sup>rd</sup> day before the election. (Elec. Code § 8022 (direct primary), § 8024 (county), § 10225 (municipal), § 10516 (district), § 10604 (schools)).

<sup>17</sup> Federal, statewide, and county-wide office candidates participate in primary elections in March or June of even-numbered years, after qualifying by submitting sufficient signatures on nominating and/or in lieu fee petitions. If one candidate receives more than 50% of the votes cast in the primary election, they are elected to take office at the expiration of the current term. If not, the top two candidates appear on the November general election ballot. The same time constraints between the close of the nomination period and the necessity to quickly review and prepare election materials apply to primary elections as those presented in this case involving only a municipal office candidate for a general election.

Municipal, school and special district office candidates do not participate in primary elections. Of those, only Municipal office candidates must submit nominating petitions along with declarations of candidacy to qualify for the ballot. If more than two candidates per office are on the ballot, a plurality of votes cast is sufficient for election to those offices.

promptly verified and the sufficiency of the petition and declaration of candidacy certified by the appropriate elections official. If the nominating petition is submitted prior to the final filing date and is found to be insufficient, the candidate is to be provided with a copy of the petition with an indication of which signatures are valid and is issued a supplemental petition on which the candidate may collect additional signatures needed to qualify for filing not later than the last day for filing. (Elec. Code § 10221, subd. (b).) In any event, the candidate as the proponent of the nominating petition, is entitled to examine the petitions on file in each county ROV office to determine which signatures were disqualified and the reasons therefore. (Gov. Code § 7924.110, subd. (b)(2).) As with other types of election related petitions, individual voters rely upon the nominating petition circulator and candidate to manage the petition and assure its sufficiency. It is up to the prospective candidate to understand the regulations and deadlines for filing a successful nominating petition.

While the number of signatures on each municipal office nominating petition is relatively small (between 20 and 30) the number of candidates submitting simultaneously by the deadline for ROV signature verification may be substantial. For example, in the Orange County in the 2022 General Election 243 candidates were on the ballot vying for 73 separate offices in 33 of the County's 34 cities. That required verification of somewhere between 4,860 and 7,290 petition signatures on 243 separate petitions, not counting those

petitions, such as the Petitioner's, that were determined to be insufficient, or supplemental petitions.

Unlike verification of signatures on VBM ballot envelopes and petitions for initiatives, referenda or recalls, the Elections Code does not specify a time after the nomination period closes within which signatures must be verified on nominating petitions. However, the press of the election calendar cycle dictates that it must be completed very quickly – within a few days at most. For petitions submitted before the nomination deadline, expedited review allows candidates the opportunity to submit supplemental petitions to cure deficiencies. Petitions or supplemental petitions submitted by the final deadline must have signatures verified as soon as practicable so that the list of qualified candidates can be certified for purposes of ballot preparation.

**B. SUMMARY OF THE ELECTION BALLOT PREPARATION PROCESS FOLLOWING THE CLOSE OF THE NOMINATION PERIOD**

The ballot materials for all the municipal contests for the consolidated election, along with those for all the other federal and statewide general elections, statewide ballot propositions, county and district elections and local ballot measures must then be assembled, printed and mailed as soon as 60 and no more than 45 days before the election. The steps in that process are complex and time consuming.

Certified candidates' ballot designation worksheets pursuant to Elections Code sections 13107, subd. (a), 13107.3, and 10223, and

optional candidate statement pursuant to Elections Code section 13307, subd. (a), must be submitted with the nominating petition. After review, the Elections Official must notify candidates concerning any violation of the regulations pertaining to ballot designations or candidate statements. (Elec. Code § 13107, subd. (f).) The ballot and voter information guide materials must be posted for a 10-day public review and legal challenges to those materials as being false, misleading or inconsistent with the requirements of Division 13, Chapter 4 of the Elections Code, including those brought by the elections official, must be filed within that period.<sup>18</sup> Issuance of the writ or injunction must not substantially interfere with the printing or distribution of official election materials as provided by law.

A writ of mandate may also be filed pursuant to Elections Code section 13314,

... alleging that an error or omission has occurred, or is about to occur, in the placing of a name on, or in the printing of, a ballot, county voter information guide, state voter information guide, or other official matter, or that any neglect of duty has occurred, or is about to occur.

A peremptory writ of mandate shall issue only upon proof of both:

- (A) That the error, omission, or neglect is in violation of this code or the Constitution.
- (B) That issuance of the writ will not substantially interfere with the conduct of the election.

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<sup>18</sup> Elec. Code § 13313.

Only after any of those disputes are resolved can sample ballots, VBM ballots and voter information guides be prepared, finalized, translated into multiple languages, printed, and mailed.

For the 2022 Orange County General Election the ballot included 214 separate contests, that resulted in the creation of over 800 separate ballot types.<sup>19</sup> Each ballot must then be translated into as many languages as are required for each county by the federal Voting Rights Act of 1965 ("VRA," 42 U.S.C. § 1973 et seq.) and the California Voting Rights Act of 2001 ("CVRA," Elec. Code, § 14025 et seq.). For Orange County in 2022, a total of 10 language translations were involved. Printing deadlines and production schedules must be accommodated. Mailing labels for each ballot type must be prepared, then applied and mailed. In all other California counties with a significant number of cities, school, and special districts, the

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<sup>19</sup> A ballot type consists of the unique set of contests that combine all jurisdictions for which voters in a given geographic area are eligible to vote. It may be helpful to visualize overlaying maps of each jurisdiction, including districts within each, as a kind of Venn diagram. Each distinct combination of intersecting layers would each have its own ballot type for voters residing within that common area.

For example, in 2022, each ballot type in Orange County would include all statewide offices and propositions, judicial and the United States Senate races, but separate types would be generated for the 6 U.S. Congressional Districts, 5 State Senate Districts, 9 State Assembly Districts, 3 County Supervisorial Districts, 45 School District at large or area Trustees, 73 Mayor and City Council at large or district seats, and 17 Special Districts, plus 2 school district measures, and 18 ballot measures in 11 cities.

pre-election work schedule for elections officials is equally complex and intense.

All this work must be completed within the period between the close of the nomination period and pre-election mailing deadlines. The first mailing due is for military and overseas voters (60 - 45 days before the election).<sup>20</sup> Next comes the mailing of VBM ballots and state voter information guides between 29 and 24 days before the election<sup>21</sup>. Finally, the mailing of local voter information guides is due 21 days before the election<sup>22</sup>. Election deadlines are frequently summarized in table format (with dates given for 2022 general election):

Days From Election	Calendar Dates (2022 Gen. Elec.)	Event
E-113 to E-83	July 18 to Aug. 17	Candidates' submission of nominating petitions and optional candidate statements of qualifications
E-108 to E-78	July 23 to Aug. 22	ROV's signature verification of nominating petitions
E-77 to E-67	Aug. 23 to Sept. 2	Public examination period for candidate names, candidate ballot designations and candidate statements. The public examination period allows any voter to examine the relevant materials and

<sup>20</sup> Elec. Code §§ 3105, subd. (b); 3114, subd. (a); Military and Overseas Voter Empowerment Act (52 U.S.C. Sec. 20301 et seq.)

<sup>21</sup> Elec. Code § 3000.5.

<sup>22</sup> Elec. Code § 13303.

		seek a writ of mandate under Elec. Code § 13313.
E-60 to E-45	Sept. 9 to Sept. 24	Statutory period for mailing of VBM ballots to overseas and military service voters
E-29- to E-24	Oct. 10 to Oct. 15	Statutory window Mailing of VBM ballots and state voter information guides
E-21	Oct. 18	Statutory deadline for mailing of local voter information guides
E-0	Nov. 8, 2022	Election Day

The period for preparation of all ballot materials therefore may be as short as 13 days but is in no event longer than 43 days. Realistically, any writ of mandate challenging the content of ballot materials must be filed and then resolved by a full month before the election so that print production and mailing by statutory deadlines can be completed in time for the election<sup>23</sup>. This timeline leaves approximately a week to ten days' time for any writ proceeding filed to come to a final resolution, in order for the contents of VBM ballots (including list of candidate names and candidate ballot designations) to be finalized for production and mailing by the aforementioned statutory timeframes. If candidates determined to have insufficient valid nominating signatures were allowed to seek judicial review of extrinsic evidence to challenge the ROV's determination of insufficiency, the already compressed timeline

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<sup>23</sup> Supplemental Declaration of Bob Page, AA – pp. 157-158

would be further compounded, resulting in uncertainty and inability to finalize the ballot layout while the proceeding is pending.

If a trial court were to determine that a candidate's name could appear on the ballot based on extrinsic evidence that the ROV was not authorized to consider, it would further encourage unsuccessful candidates to seek a second (or third) bite of the apple by filing a writ and submitting extrinsic evidence to try to overturn the ROV's determination, even if the ROV adhered to the signature verification regulations and complied with their ministerial duty in the process. And, if a trial court were to override the ROV's determination of insufficiency in such judicial review to allow a candidate's name to appear on the ballot on the basis of extrinsic evidence, the ROV then have to contend with whether such a candidate could submit a candidate statement of qualifications since the statutory deadline to submit such statement would have expired, and there would be no time left to set a second 10-day public examination period on the candidate's ballot designation and candidate statement, nor time for any voter (or the ROV) to seek a writ of mandate as to the candidate's ballot designation or candidate statement, pursuant to Elec. Code § 13313.

Under this scenario, a voter's right to publicly examine ballot materials and to file a writ of mandate could be abridged in favor of a complaining candidate's rights. The ROV could also be left to face writ filings from multiple candidates found to have submitted



insufficient valid nominating signatures during an already extremely compressed time period with various competing election preparation activities and corresponding statutory deadlines. Under this scenario, at best, the finality of the ballot materials could not occur until the very last minute before the ballot production deadline. At worst, it could result in delay in finalizing and production of the ballot materials, and cause disruption to the timeline and ultimately, to the orderly and efficient conduct of elections, at the detriment of voters.

**C. PROHIBITING ADMISSION OF EXTRINSIC EVIDENCE OF SIGNATURE AUTHENTICITY IN A WRIT PROCEEDING REGARDING THE SUFFICIENCY OF NOMINATING PETITIONS IS A REASONABLE, NON-DISCRIMINATORY RESTRICTION JUSTIFIED BY THE STATE'S IMPORTANT REGULATORY INTERESTS IN THE CONDUCT OF ORDERLY AND TIMELY ELECTIONS.**

It has long been recognized that restrictions on candidate nominating petitions implicate voters' fundamental rights because "[a]ll procedures used by a State as an integral part of the election process must pass muster against the charges of discrimination or of abridgement of the right to vote." (*Moore v. Ogilvie* (1969) 394 U.S. 814, 818.) In addition to voters' rights, candidates have a correlative right to run for office. (*Canaan v. Abdelnour* (1985) 40 Cal.3d 703, 714 (partially overruled and narrowed by *Edelstein v. City and County of San Francisco* (2002) 29 Cal.4th 164, 183); *Johnson v. Hamilton* (1975) 15 Cal.3d 461, 466- 468; *Zeilenga v. Nelson* (1971) 4 Cal.3d 716, 723.).

However, the right to vote in any manner and the right to associate for political purposes through the ballot in support of a particular candidate are not absolute. States retain the power to regulate their own elections. Common sense, as well as constitutional law, compels the conclusion that government must play an active role in structuring elections; "[A]s a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes." *Storer v. Brown* (1974) 415 U.S. 724, 730.

"Election laws will invariably impose some burden upon individual voters. Each provision of a code, 'whether it governs the registration and qualifications of voters, the selection and eligibility of candidates, or the voting process itself, inevitably affects—at least to some degree—the individual's right to vote and his right to associate with others for political ends.'" (*Anderson v. Celebrezze* (1983) 460 U.S. 780, 788.)

[W]hen a state election law provision imposes only reasonable, nondiscriminatory restrictions upon the First and Fourteenth Amendment rights of voters, the State's important regulatory interests are generally sufficient to justify the restrictions." (*Burdick v. Takushi* (1992) 504 U.S. 428, 432-434.)

Under the three-part *Anderson-Burdick* framework, the Court must first consider the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate. The court then must identify and evaluate the precise interests put forward by the state as justifications for the burden imposed by its rule. In passing

judgment, the court must not only determine the legitimacy and strength of each of those interests; it also must consider the extent to which those interests make it necessary to burden the plaintiff's rights. Only after weighing all these factors is the reviewing court in a position to decide whether the challenged provision is unconstitutional. (*Anderson v. Celebrezze* (1983) 460 U.S. 780, 789.)

In *Anderson*, the Court struck down an Ohio ballot access requirement for independent Presidential candidates to file declarations of candidacy 75 days prior to the primary election for party candidates to qualify to appear on the general election ballot. The Court held that Ohio's asserted interest in its early filing deadline for independent candidates as furthering voter education, equal treatment for partisan and independent candidates, did not justify the restriction, where major party candidates would automatically appear on the general election ballot even if they did not participate in Ohio's Presidential preference primary. Thus the Ohio statutory scheme discriminated against independent candidates and voters' rights to support them without a substantial state interest.

In *Burdick*, the Court applied the same three step analysis to the contention that Hawaii's election statutes that prohibited write-in voting unreasonably infringed on its citizens' First and Fourteenth Amendment constitutional rights. The Court held that a prohibition on write-in voting, taken as part of the state's comprehensive election scheme for ballot access, did not

impermissibly burden the right to vote because the legitimate interests asserted by the state were sufficient to outweigh the limited burden that the write-in voting ban imposed upon state voters.

In *Lemons v. Bradbury* (9th Cir. 2008) 538 F.3d 1098, the Court applied the *Anderson-Burdick* framework to a challenge to the Oregon Secretary of State's determination that a referendum petition had insufficient valid signatures to qualify for the ballot. The plaintiffs contended that the Secretary violated their equal protection and due process rights by not providing the same notice and opportunity to rehabilitate referendum signatures that was afforded by Oregon's statutes to signers of vote-by-mail election ballots (similar to California Elections Code section 3019). That claim is analogous to Petitioner's argument in this case that she should be permitted to rehabilitate signatures invalidated on her nominating petition by admission of extrinsic evidence in the writ proceeding challenging the ROV's determination.

The Oregon Constitution and statutes governing referenda and signature verification closely parallel those of California outlined above. Oregon statutes require the Secretary to use a statistical sampling method for verifying referendum petition signatures, using "an elector's voter registration record or other database." [citation omitted]. The Secretary samples approximately five percent of the submitted signatures for each referendum and submits the sampled signatures to county elections officials. [citation omitted]. The State Initiative and Referendum Manual, adopted by

the Secretary through administrative rule, [citation omitted], requires county elections officials to “verify [] the original signatures” sampled from referendum petitions “using voter registration records.” A publication entitled Directive for Signature Verification, issued by the Secretary on November 24, 1981, specifies that county elections officials should “[c]ompare the signature on the petition and the signature on the voter registration card to identify whether the signature is genuine and must be counted.” The Secretary extrapolates the overall number of valid petition signatures using the sampled signature results. [citation omitted].

Under these procedures, county elections officials verify sampled referendum signatures by determining whether each petition signature matches the signature on the signer's existing voter registration card. One of the options for rejecting signatures was that the “signatures do not match.” Other reasons included “not registered” and “illegible signatures.” Oregon law does not provide procedures by which a voter can introduce extrinsic evidence to rehabilitate a referendum signature after its rejection. [citation omitted]. No county gave notice to voters with rejected signatures. The counties also refused to consider extrinsic evidence presented by voters with rejected signatures, such as affidavits and updated voter registration cards. In contrast, for non-matching ballot signatures returned during Oregon's vote-by-mail elections, the Secretary's Vote by Mail Procedures Manual requires county elections officials to give the voter ten-days' notice and an

opportunity to submit an updated voter registration card before final certification of election results.

The Ninth Circuit panel held that although regulations on the referendum process implicate the fundamental right to vote, the state's important interests justify the minimal burden on plaintiffs' rights. Additionally, the Court ruled that Oregon's signature verification standards are uniform and specific enough to ensure equal treatment of voters.

The Court held that the Secretary's procedures are reasonable and uniform in limiting review to comparison between petition signature and existing voter registration cards. All counties are required to have higher county elections authorities review all signatures that are initially rejected. In this context, the Court found that the absence of notice and an opportunity to rehabilitate rejected signatures imposes only a minimal burden on plaintiff's rights.

The Court ruled that Oregon's important state interests in fairly and efficiently administering initiative and referendum petitions justified the minimal burden on the right to vote. It noted that in any election period, there may be ten or more proposed initiative and referendum measures that require signature verification of more than 100,000 sampled signatures within a short 30-day period. The Court noted that the administrative burden of verifying a referendum petition signature is significantly greater than the burden associated with verifying a vote-by-mail election ballot signature. As in California, verification of a vote-by-mail

signature takes mere seconds because elections officials can scan the barcode on the back of the ballot envelope and automatically access the signer's voter registration record. In contrast, verification of each referendum petition signature takes several minutes because elections officials must identify the signer, find the corresponding voter registration card, determine whether the signer is an active, registered voter, and then compare the signatures. Moreover, the Court reasoned fraudulent signatures are less likely in vote-by-mail elections, in which the ballots are sent directly by the election official to the voter, and returned directly by the voter to the elections official. In initiative and referenda, by contrast, the signatures are often gathered by privately hired signature gatherers who are paid a fixed amount for each signature they obtain. These differences between referendum petitions and vote-by-mail ballots justified the minimal burden imposed on plaintiffs' rights in that case.

The *Lemons* Court held that requiring the state to provide thousands of petition signers with individual notice that their signatures have been rejected and to afford them an opportunity to present extrinsic evidence during the short thirty-day verification period would impose a significant burden on the Secretary and county elections officials. In contrast to the significant weight of the state's interests, the Court ruled that plaintiffs' interest in the additional procedures they seek is slight. The verification process is already weighted in favor of accepting questionable signatures, in

part because rejected signatures are subject to more than one level of review by county elections officials.

The same *Anderson-Burdick* framework analysis of the constitutionality of California's election regulations governing municipal office nominating petitions signature verification should apply to the present case before this Court. When it comes to constitutional challenges to election laws, California courts closely follow the analysis of the United States Supreme Court. (*Edelstein v. City and County of San Francisco* (2002) 29 Cal.4th 164, 168, following *Burdick*.)

Elections Code section 10220 requires *all* candidates for municipal office to submit a nominating petition signed by at least 20 but no more than 30 registered voters by close of the 25-day nomination period ending 88 days prior to the election. Thus it is non-discriminatory. Section 10221, subd. (b) allows candidates whose nominating petitions submitted prior to the final deadline that have been found to contain an insufficient number of valid signatures to submit a supplemental petition with additional signatures to meet the 20-signature minimum requirement by the last day for filing to qualify as a candidate. The harm about which Petitioner complains is due to her own lack of diligence in waiting until the last day to file her initial nominating petition. The situation can easily be avoided in the future by submitting her initial nomination petition a few days before the final deadline so that she can cure any deficiency with a supplemental petition. Thus, the



burden on municipal office candidates and voter signatories of signature verification of nominating petitions on their First and Fourteenth Amendment electoral rights is slight.

In *Jeness v. Fortson* (1971) 403 U.S. 431, 442, the Court noted that there is an important state interest in requiring a preliminary showing of a modicum of support before printing the name of a candidate on the ballot in avoiding confusion, deception, or even frustration of the democratic process at the general election.

In her Reply Brief, at p. 32, Petitioner attempts to resuscitate an argument made in the trial court pleadings, but abandoned in her opening brief, that signature verification is not required at all for municipal nominating petitions by selectively parsing Elections Code section 105 and 10221. The argument flies in the face of the plain language of each statute. Section 105 (a)(1) provides,

*For purposes of verifying a signature on an initiative, referendum, recall, nomination, or other election petition or paper, the elections official shall determine that the residence address on the petition or paper is the same as the residence address on the affidavit of registration. If the addresses are different, or if the petition or paper does not specify the residence address, or, in the case of an initiative or referendum petition, the information specified in Section 9020 is not contained in the petition, the affected signature shall not be counted as valid.*  
[Emphasis added]

Section 10220 reads:

Candidates may be nominated for any of the elective offices of the city in the following manner:

Not earlier than the 113th day nor later than the 88th day before a municipal election during normal office hours, as posted, the voters may nominate candidates for election *by signing a nomination paper*. Each candidate shall be proposed by not less than 20 nor more than 30 voters in a city of 1,000 registered voters or more, and not less than five nor more than 10 voters in a city of less than 1,000 registered voters, but only one candidate may be named in any one nomination paper. *No voter may sign more than one nomination paper for the same office, and in the event the voter does so, that voter's signature shall count only on the first nomination paper filed which contains the voter's signature.* Nomination papers subsequently filed and containing that voter's signature shall be considered as though that signature does not appear thereon. Each seat on the governing body is a separate office. Any person who meets the requirements of Section 102 may circulate a nomination paper. Only one person may circulate each nomination paper. Where there are full terms and short terms to be filled, the term shall be specified in the nomination paper. [Emphasis added]

Section 10221 provides:

(a) Except as provided in subdivision (b), *the signatures to each nomination paper shall be appended on the same sheet of paper, and each signer shall add his or her place of residence, giving the street and number, if any, or another designation of his or her place of residence, so as to enable its location to be readily ascertained.*

(b) Once a nomination paper is filed with the elections official, the nomination paper may not be returned to the candidate *to obtain additional signatures*. If the nomination paper is determined to be insufficient or the candidate *fails to obtain the correct number of valid signatures* on his or her nomination paper, the elections official shall retain the original nomination paper, *provide a copy of the nomination paper to the candidate with an indication on of which signatures are valid*, and issue one supplemental petition to the candidate *on which the*

*candidate may collect additional signatures.* The supplemental petition shall be filed not later than the last day for filing for that office. The form of the supplemental petition shall be the same as the nomination paper, except that the word “Supplemental” shall be inserted above the phrase “Nomination Paper.” [Emphasis added.]

There is no other reasonable way to read these statutes but to conclude that the signatures of at least 20 registered voters must be included on the nominating petition that are validated by the ROV for the candidate to qualify for the ballot. In verifying signatures, the ROV is limited to comparison of the nominating petition signatures with registration records without reference to any extraneous information. (*Ley v. Dominquez* (1931) 212 Cal. 587, 596, 602; *Wheelright v. County of Marin* (1970) 2 Cal.3d 448, 456; *Assembly v. Deukmejian* (1982) 30 Cal.3d 638, 647, fn 8; *Mapstead v. Anchundo* (1998) 63 Cal.App.4th 246, 257.)

The process for verification of signatures on one candidate’s nomination petition should not be viewed in isolation. Just as the *Lemons* Court considered the administrative burden of having to verify signatures on multiple initiative and referendum petitions within a 30-day period during a given election cycle, the burden of verification of signatures for every candidate for all municipal offices in all the consolidated elections within each county during an even shorter time period is an important justification for reasonable restraints on the scope of election officials review and subsequent judicial review. Given the short time between the close of the nomination petition and the press of activities necessary to assemble,

translate, print and distribute ballots and voter information guides for all of the election contests for that elections cycle, the state has a compelling interest in the efficient conduct of fair, timely and orderly elections that justifies exclusion of extrinsic evidence in the signature verification process for nominating petitions. The direct impact on the right to vote that is present with signature verification of VBM ballots protected by Oregon statutes and California Elections Code section 3019, is distinguishable from the attenuated and indirect impact in the context of any type of petition signature verification. Even more differentiation from the imperative of section 3019 for a notice to voters of signature disqualification and right to cure is the fact that, unlike the more limited remedies available to initiative, referendum or recall proponents, municipal office candidates can already get two bites at the ballot qualification apple by the simple expedient of filing their initial nominating petition soon enough before the final deadline so that they can cure any deficiency in valid signatures by filing a supplemental petition. To allow a process for consideration of extrinsic evidence would needlessly authorize a third bite and throw the election timeline into chaos.

Elections Code section 13313 clearly identifies the important interest of the state in streamlined dispute resolution by providing that “issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.” Section 13314, subd. (a)(2) likewise requires that “issuance of the writ will not substantially interfere with the conduct

of the election.” To allow extrinsic evidence to be introduced in writ proceedings that the ROV is precluded by law from considering would frustrate this important interest. Given the volume of municipal candidate nominating petitions, allowing trials with extrinsic evidence and handwriting expert testimony would potentially clog the courts with actions entitled to preference and expedited proceedings and create chaos for the timely conduct of elections. Far from being “irrelevant” as asserted by Petitioner (Petitioner’s Reply brief, p. 32, fn.18), *timing is everything* insofar as the proper administration of elections is concerned in weighing the factors to be considered under the *Anderson-Burdick* framework.

Mandamus is the correct remedy for compelling an officer to conduct an election according to law. (*Wenke v. Hitchcock* (1972) 6 Cal.3d 746, 751.) It is also an appropriate vehicle for challenging the constitutionality of statutes and official acts. (*Ibid.*) Upon mandamus review under Code of Civil Procedure section 1085, the ROV’s determination must be accepted if the Court finds that the clerk acted reasonably and not arbitrarily or fraudulently. (*Wheelright, supra*, 2 Cal. 3d at p. 456.). Alternatively, a Petitioner in a writ of mandate proceeding filed pursuant to Elections Code section 13314 must submit proof that the ROV’s error, omission or neglect in invalidating Petitioner’s nominating petition signatures was in violation of the Elections Code or the Constitution.

Petitioner has provided no credible evidence or argument that the ROV has in any way violated the Elections Code. Petitioner’s

claim of a Constitutional violation fails to meaningfully apply the *Anderson-Burdick* framework analysis to substantiate its allegation. The state's interest in conducting timely and fair elections and requiring voter support to qualify municipal office candidates for the ballot in the context of the deadlines for pre-election ballot preparation and distribution justifies the minimal intrusion on voter and candidates' constitutional electoral rights when considered under the *Anderson-Burdick* framework.

**D. CHANGES IN ELECTION LAW AND CASES  
APPLYING ANDERSON-BURDICK TO  
CONSTITUTIONAL CHALLENGES TO ELECTION  
REGULATION DECIDED SINCE 1970 STRONGLY  
SUPPORT THE CONTINUED VIABILITY OF  
WHEELRIGHT.**

Petitioner's argument that the *Wheelright* limitation on the consideration of extrinsic evidence in writ proceedings should be disregarded because of changes in election law since 1970 also fails for lack of specificity or adequate analysis<sup>24</sup>. As *Lemons v. Bradbury*, decided 38 years after *Wheelright* and discussed at length above makes clear, consideration of extrinsic evidence of signature validity on a referendum petition is not constitutionally required when weighed against the state's burden in validating multiple petitions in short time allowed by law, and interest in conducting fair and orderly elections. The *Anderson-Burdick* framework was most

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<sup>24</sup> Appellant's Opening Brief, pp. 35–36; Appellant's Reply Brief, pp. 33-34.

recently applied by a California court in *San Bernardino County Bd. of Supervisors v. Monell* (2023) 91 Cal.App.5th 1248 (*Monell*), in which the Court held that the state's interest in curbing the abuses of incumbency outweighed the interest of supervisorial candidates and voters rights to re-elect candidates of their choice in upholding a local county charter initiative limiting supervisors to a single four-year term in their lifetimes. Petitioner cited *Monell* as one change but provided no analysis as to how it might apply to the facts of this case. Petitioner simply neglects to undertake the *Anderson-Burdick* three-step analysis.

If nothing else, the much more rigorous standard for petition signature verification disfavoring invalidation adopted by the Secretary of State (Cal. Code Regs. tit. 2 § 20960), compared to the standard enunciated in *Wheelright*, further buttresses the basis for reliance by a reviewing court on the ROV's determination absent proof that the ROV acted unreasonably, arbitrarily or fraudulently. Under *Wheelright*, 2 Cal. 3d 448, 456:

[W]here the signature on the petition is obviously spurious and is not that of the voter as shown by the registration affidavit, the clerk may and must reject it. Where there are dissimilarities which are so minor as to make the clerk's rejection of the signature an unreasonable or arbitrary act, the court may not accept the clerk's determination. Where, as here, the dissimilarities are not so minor and the similarities are not so great that only one conclusion can be made as to the validity or invalidity of the signature, and where the court finds that in acting upon these dissimilarities and other indicia the clerk was not acting unreasonably or arbitrarily in finding

them spurious, the court must accept the clerk's determination.

Under election law then in effect the criteria for comparison of dissimilarities and similarities was not specified, just that the clerk must exercise, "some judgment" to compare the handwritten signature on the petition with the registration affidavit and "use his eyesight and critical faculties to determine whether sufficient similarities exist for him to certify that this is a valid signature." Multiple levels of review by elections officials or a standard for determination (e.g. more likely than not, or beyond a reasonable doubt) were not specified.

Under the Secretary of State's regulation (Cal. Code Regs. tit. 2 § 20960):

- "c) The comparison of a signature shall begin with the basic presumption that the signature on the petition . . . is the voter's signature.
- (d) Exact matches are not required for an elections official to confirm a valid signature. The fact that signatures share similar characteristics is sufficient to determine that a signature is valid.
- (e) Similar characteristics between a signature being compared and any signature in the voter's registration record are sufficient to determine a signature is valid.
- (f) In comparing the signatures, the elections official may consider the following characteristics when visually comparing a signature to determine whether the signatures are from the same signer:
  - (1) Slant of the signature.
  - (2) Signature is printed or in cursive.
  - (3) Size, proportions, or scale.



- (4) Individual characteristics, such as how the "t's" are crossed, "i's" are dotted, or loops are made on the letters f, g, j, y, or z.
  - (5) Spacing between the letters within the first and/or last name and between first and last name.
  - (6) Line direction.
  - (7) Letter formations.
  - (8) Proportion or ratio of the letters in the signature.
  - (9) Initial strokes and connecting strokes of the signature.
  - (10) Similar endings such as an abrupt end, a long tail, or loop back around.
  - (11) Speed of the writing.
  - (12) Presence or absence of pen lifts.
  - (13) Misspelled names.
- (g) In comparing signatures on a petition . . . elections officials shall consider as explanations for the following discrepancies in signatures:
- (1) Evidence of trembling or shaking in a signature could be health-related or the result of aging.
  - (2) The voter may have used a variation of their full legal name, including, but not limited to the use of initials, or the rearrangement of components of their full legal name, such as a reversal of first and last names, use of a middle name in place of a first name, or omitting a second last name.
  - (3) The voter's signature style may have changed over time.
  - (4) The signature may have been written in haste.
  - (5) A signature in the voter's registration file may have been written with a stylus pen or other electronic signature tool that may result in a thick or fuzzy quality.
  - (6) The surface of the location where the signature was made may have been hard, soft, uneven, or unstable.
- (h) In addition to the characteristics listed in subdivisions (f) and (g), the elections official may also consider factors applicable to a particular voter, such as the age of the voter, the age of the signature(s) contained in the voter's record, the possibility that the voter is disabled, the voter's primary

language, and the quality of any digitized signature(s) contained in the voter's record.

(i) Only a signature possessing multiple, significant, and obvious differing characteristics with all signatures in the voter's registration record will be subject to additional review by the elections official.

(j) A signature that the initial reviewer identifies as possessing multiple, significant, and obvious distinctive differing characteristics from the signature(s) in the voter's registration record shall only be rejected if two different elections officials unanimously find beyond a reasonable doubt that the signature differs in multiple, significant, and obvious respects from all signatures in the voter's registration record.

(k) When evaluating signatures, elections officials may review using broad characteristics to evaluate an entire signature as a unit or they may narrow the scope of their examination to that of specific letters within a signature.

(l) A signature made using a mark, such as an "X", or made by a signature stamp is presumed valid and shall be accepted if it meets the requirements set forth in Elections Code section 354.5."

These standards significantly constrain the level of judgment to be exercised by elections officials in signature verification when compared with those enunciated in *Wheelright*. The ROV certified under penalty of perjury that the Secretary of State regulations were met or exceeded in the review of nominating petitions for the 2022 general election, including that of the Petitioner. (AA 157-158). The trial court reviewed the petition signatures and registration documents *in camera* and quickly confirmed that the ROV's determination was not unreasonable, arbitrary or fraudulent, stating, "I don't think this is a close case. I don't think those signatures are remotely similar at all." (RT 49: 10-17.) Clearly the

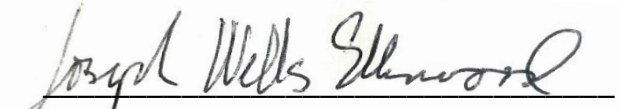
trial court's review supported the ROV staff's unanimous conclusion that the signatures in question did not match -- beyond a reasonable doubt. The trial court did not abuse its discretion in refusing to consider extrinsic evidence, especially in light of the high standard for rejection of petition signatures under the Secretary of State's regulation, § 20960, set forth above.

### III. CONCLUSION

The exigencies of the myriad tasks that must be undertaken by elections officials between the close of the nomination period and the production and distribution of election materials to the voters in the weeks before election day necessarily circumscribes the time and the scope for signature verification of nominating petitions and judicial review of the result. To hold otherwise would throw the election calendar into chaos and potentially clog the courts with cases entitled to preference and expedited proceedings. Recently adopted rigorous standards favoring verification of signatures on VBM ballot envelopes and all types of elections-related petitions greatly reduces the potential for error or bias by elections officials. The opportunity for municipal office candidates to submit supplemental petitions to cure an insufficiency of valid signatures on the nominating petition further mitigates potential impact on candidates' rights to seek elected office. For these reasons, the California Association of Clerks and Election Officials and California State Association of Counties respectfully urge this Court to sustain the ruling of the trial court.

Respectfully submitted,


Dated: November 27, 2023

  
\_\_\_\_\_  
Joseph Wells Ellinwood  
Attorney for Amicus Curiae  
California Association of Clerks and  
Election Officials and California State  
Association of Counties

CERTIFICATE OF COMPLIANCE

Pursuant to rule 8.204(c) of the California Rules of Court, I hereby certify that this proposed brief contains 9,169 words, including footnotes. In making this certification, I have relied on the word count of the computer program used to prepare the brief.

By:

  
\_\_\_\_\_  
Joseph Wells Ellinwood

**PROOF OF SERVICE**

I, the undersigned, declare under penalty of perjury that:

I am a citizen of the United States, over the age of 18, and not a party to this action. My business address is 1100 K Street, Suite 101, Sacramento, CA 95814.

On the date set forth below, I served:

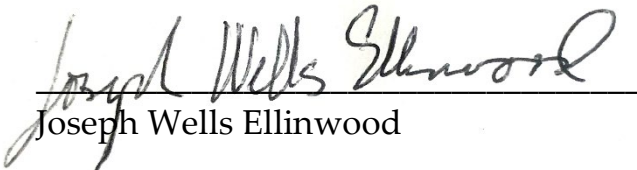
**CALIFORNIA ASSOCIATION OF CLERKS AND ELECTIONS OFFICIALS AND CALIFORNIA STATE ASSOCIATION OF COUNTIES AMICUS CURIAE BRIEF IN SUPPORT OF RESPONDENT BOB PAGE**

on the following party(ies) in this action: *see attached list.*

**BY FIRST CLASS MAIL:** I enclosed the documents in an envelope addressed to the parties at the addresses above with postage paid. I mailed the documents on the date set forth below, from the place set forth below, by placing the mail at a business mail drop where I know the mail is picked up each day and deposited with the United States Postal Service.

**BY ELECTRONIC MAIL:** By causing true copy(ies) of PDF versions of said document(s) to be sent to the e-mail addresses of each party listed. The email address from which I served the documents is [jellinwood@counties.org](mailto:jellinwood@counties.org).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 27, 2023 at Sacramento, California.

  
\_\_\_\_\_  
Joseph Wells Ellinwood

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