

Superior Court of California

COUNTY OF VENTURA
Hall of Justice
800 South Victoria Avenue
Ventura, CA 93009

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Message

SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA Ventura 800 South Victoria Avenue Ventura, CA 93009	
SHORT TITLE: CITY OF OXNARD vs. Starr	
CLERK'S CERTIFICATE OF SERVICE BY MAIL (Minute Order)	CASE NUMBER: 56-2020-00539039-CU-MC-VTA

I certify that I am not a party to this cause. I certify that a true copy of the Minute Order was mailed following standard court practices in a sealed envelope with postage fully prepaid, addressed as indicated below. The mailing and this certification occurred at Ventura, California, on 07/15/2020.

Clerk of the Court, by: _____



, Deputy

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and BY FACSIMILE: I caused a courtesy copy of said documents to be sent via facsimile to the interested party on **July 15, 2020 at 2:15 p.m.** from **805-477-5894** and with no notice of error as follows:

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CLERK'S CERTIFICATE OF SERVICE BY MAIL

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF VENTURA
VENTURA**

MINUTE ORDER

DATE: 07/15/2020

TIME: 01:38:00 PM

DEPT: 42

JUDICIAL OFFICER PRESIDING: Henry Walsh
CLERK: H McIntyre
REPORTER/ERM:

CASE NO: **56-2020-00539039-CU-MC-VTA**CASE TITLE: **CITY OF OXNARD vs. Starr**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Misc Complaints - Other

EVENT TYPE: Ruling on Submitted Matter

APPEARANCES

The Court, having previously taken the July 15, 2020 Writ of Mandate on Cross Petition under submission, now rules as follows:

This matter came regularly on calendar on July 15, 2020 on Cross Petitioner Aaron Starr's motion for a writ of mandate on his cross-petition. Mr. Frederic Woocher appeared for Cross-Petitioner Aaron Starr. Ms. Holly Whatley appeared for Cross-Respondent City of Oxnard.

This action began on January 17, 2020 with the filing of a declaratory relief action by the City of Oxnard asking for relief from its obligation to adopt or submit to the voters certain initiatives proposed by Aaron Starr, a citizen and registered voter in Oxnard. The City contended that at least three of Mr. Starr's initiatives were invalid for exceeding the initiative power by effecting an administrative act, or by exercising discretion the state legislature has delegated exclusively to the Oxnard City Council. Starr cross-petitioned for a writ of mandate asking that the City comply with Elections Code section 9215 by either adopting his initiatives or placing them on the ballot for the November 2020 general election.

In March of 2020, after service of the declaratory relief complaint, counsel for the City contacted counsel for Starr to arrange a briefing schedule. This was never acted upon, and there shortly followed the court closure due to the Covid-19 virus. Starr answered the complaint on June 10, 2020. On June 16, 2020, he filed the current motion for issuance of a writ of mandate. He also filed a special motion to strike (SLAPP), and set it for hearing on July 29, 2020. To further set the context of the motion for a writ of mandate, the deadline for submission of ballot material to the Registrar of Voters, including both ballot arguments and rebuttals, is July 20, 2020.

This motion amounts to a pre-election challenge to a ballot proposal, and there is a flavor in the appellate cases that pre-election challenges should be carefully reviewed. Elections are not to be trifled with, and the electorate's access to the ballot should be carefully guarded.

The motion for a writ of mandate on the Cross-Petition is granted. The City of Oxnard is ordered to comply with Elections Code section 9215 forthwith and to either adopt the initiatives in question, or to place them on the ballot for the general election on November 3, 2020. The court relies heavily on *California Cannabis v. City of Upland*, (2017), 3 Cal.5th 924,948. The City cannot simply ignore its

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obligations under Election Code section 9215. Those deadlines are mandatory. Once it complies with its obligations under 9215, "...the City or other interested parties may pursue any appropriate legal challenge to the measure either in the pre-, or more likely, post election context". Id., page 948.

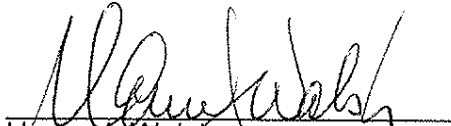
Here, the City filed its declaratory relief action to test the validity of Mr. Starr's initiatives. That was an appropriate thing for the City to do if it doubted the validity of the initiatives. It also sought to set a briefing schedule with opposing counsel. This did not come to fruition, and then the Covid interruption shut everything down for close to three months. At this point, with a July 20 deadline to have arguments provided to the Registrar of Voters for inclusion in the voter information packet, time had effectively run out for a comprehensive pre election review of the Starr sponsored initiatives. *Save Stanislaus v. Board of Supervisors*, (1993) 13 Cal.App.4th 141 gives the court wide discretion to review post-election an initiative which has procedurally qualified for the ballot. The court is exercising that discretion by this ruling, and expresses no opinion regarding the legal sufficiency of the initiatives. It is simply putting that off for another day should they be approved by the electorate.

Counsel for Mr. Starr is directed to prepare, serve and to submit a proposed writ.

The July 29th hearing on the SLAPP motion is ordered off calendar. The case is set for a status conference on November 23, 2020 at 9:30 am in Courtroom 42 to determine what further may be required to resolve all issues raised by the pleadings, including the SLAPP motion.

The court reserves determination of prevailing party status until the case has been concluded.

Compliments to counsel for the high quality of their arguments and comments. It is a good start to a trial judge's day when counsel are informed on the issues before the court, and stay on message.



Henry J. Walsh
Judge of the Superior Court