

**COURT OF APPEAL, STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT, DIVISION ONE**

CITIZENS OVERSIGHT, INC., ET AL.,  
Plaintiffs and Appellants,

v.

MICHAEL VU, ET AL.,  
Defendants and Appellants.

**FROM THE COUNTY OF SAN DIEGO**

**HON. JOEL R. WOHLFEIL**

**JUDGE**

**COURT OF APPEAL CASE NUMBER  
D071907**

**CLERK'S TRANSCRIPT**

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**SUPERIOR COURT - STATE OF CALIFORNIA**  
**COUNTY OF SAN DIEGO**

CITIZENS OVERSIGHT INC., a Delaware non-profit  
corporation; RAYMOND LUTZ, an individual,

Plaintiffs,

v.

MICHAEL VU, San Diego Registrar of Voters; HELEN N.  
ROBBINS-MEYER, San Diego County Chief  
Administrative Officer; COUNTY OF SAN DIEGO, a  
public entity; DOES 1-10,

Defendants.

CASE NUMBER 37-2016-00020273-CL-MC-CTL

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CIVIL BUSINESS OFFICE 4  
CENTRAL DIVISION

2016 JUN 16 AM 10:01

CLERK SUPERIOR COURT  
SAN DIEGO COUNTY, CA

1 RAYMOND LUTZ  
1010 Old Chase Ave  
2 El Cajon, CA 92020  
619-820-5321  
3 raylutz@citizenoversight.org

5 RAYMOND LUTZ, IN PRO PER

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF SAN DIEGO

11 RAYMOND LUTZ

12 Plaintiff(s),

13 vs.

14 MICHAEL VU, San Diego County Registrar of  
Voters

15 HELEN N. ROBBINS-MEYER, San Diego  
16 County Chief Administrative Officer

17 SAN DIEGO COUNTY, a municipality

18 Defendant(s).

Case No.: 37-2016-00020273-CL-MC-CTL

COMPLAINT FOR DECLARATORY  
RELIEF

DATE:  
TIME:  
DEPT:

Judge:  
Dept:  
Action Filed:  
Trial Date:

20 PARTIES

21 Plaintiff is a resident and registered voter in the County of San Diego unincorporated area. He is  
22 also the National Coordinator of CitizensOversight.org, and has conducted extensive reports and  
23 reviews of the election processes used in San Diego county since 2008, including a top-to-bottom  
24 report regarding the 2010 election. Plaintiff is a trained engineer with MSEE degree and not an  
25 attorney.

26 /  
27 /  
28 /

1 Defendant Michael Vu, San Diego County Registrar of Voters, is responsible for conducting  
2 election procedures in compliance with California State Law, including the California State  
3 Elections Code.

4  
5 Defendant Helen N. Robbins-Meyer, Chief Administrative Officer, County of San Diego, has  
6 ultimate responsibility for operation of the County of San Diego to ensure compliance with all laws,  
7 including compliance with the California Elections Code, maintains an office at the County  
8 Administration Building located in the City of San Diego at 1600 Pacific Highway, Rm 166, San  
9 Diego, CA, 92101. Robbins-Meyers is the supervisor to Michael Vu.

10  
11 Defendant County of San Diego is a municipality in the State of California and operates as an  
12 election district under the California State Election Code, with principle offices in the County  
13 Administration Building as described above.

14  
15 Plaintiff complains and for causes of action alleges as follows:

16  
17 SUMMARY:

18 The San Diego County Registrar of Voters is not in compliance with California Elections Code  
19 regarding the number of Vote-by-Mail (VBM) ballots hand-counted in the 1% manual tally and  
20 requests that the Registrar of Voters comply with the law and

21 a) include all VBM ballots in the calculation of the required number of batches to achieve  
22 one-percent, and

23 b) thus the number of VBM batches will increase from 8 to approximately 15;

24 c) all VBM ballot batches be involved in the selection of batches involved in the 1% manual  
25 tally;

26 d) all provisionals and ballots removed during QC inspection should be included in the 1%  
27 manual tally; and

28

1 e) and data file(s) that reflect the tally of votes in each batch counted should be available to  
2 the public so a direct comparison can be made between the results of scanning the batch and the  
3 results achieved in the hand-tally process.

4  
5 BACKGROUND:

6  
7 Manual Tally

8 California Election Code Section 153601 describes the activities required in conduct of processing  
9 the votes with regard to the "1% Manual Tally".

10  
11 The applicable section of the law is as follows:

12 15360 a.(2) A two-part public manual tally, which includes  
13 both of the following:

14 (A) A public manual tally of the ballots, not including  
15 vote by mail ballots, cast in 1 percent of the precincts  
16 chosen at random by the elections official and conducted  
17 pursuant to paragraph (1).

18 (B) (i) A public manual tally of not less than 1 percent of  
19 the vote by mail ballots cast in the election. Batches of vote  
20 by mail ballots shall be chosen at random by the elections  
21 official.

22 (ii) For the purposes of this section, a "batch" means a set  
23 of ballots tabulated by the voting system devices, for which  
24 the voting system can produce a report of the votes cast.

25  
26 The 1% manual tally is conducted by teams of workers who carefully manually count and tally  
27 votes of all the ballots in selected precincts. One use of the 1% Manual Tally is to detect  
28 discrepancies and any possible computer programming errors. However, election integrity

1 advocates also see the 1% manual tally as a means to ensure larger integrity of the vote-counting  
2 process. The 1% Manual Tally, with careful oversight, can also a check on the integrity of the  
3 workers at the Registrar and can detect hackers from the outside who may alter the vote in the  
4 central tabulator.

5

6 Regardless of the stated purpose, the 1% manual tally should be conducted according to the full  
7 extent of the provisions of law.

8

9 There are two major classes of ballots processed by the 1% manual tally.

10       POLL BALLOTS: Ballots cast in at a physical polling place to vote (generally) on election  
11 day. Included in this set are all ballots that are not Vote-by-mail ballots, including provisional  
12 ballots. Provisional Ballots are used at the polling place if there is some question about the validity  
13 of the ballot, so these can be reviewed later.

14       VOTE-BY-MAIL (VBM) BALLOTS: Deposited in the mail and postmarked no later than  
15 election day. These days, VBM ballots may comprise as much or more than 60% of the total votes  
16 cast.

17

18 It is important to note the wording of the 1% manual tally provisions carefully, as they were crafted  
19 with an intent to be succinct and meaningful. The first set of ballots, the polls ballots, are all ballots  
20 that are not VBM ballots. This then would include all provisional ballots, for example, because it is  
21 the intent of this provision, we argue, to include absolutely all ballots in the universe of ballots to be  
22 checked by the 1% manual tally.

23

24 The other set are all VBM ballots "cast." Not "received", not "processed" and not "tallied." The  
25 wording is "cast." The word "cast" is not explicitly defined by the elections code, but the common  
26 meaning is that a ballot is "cast" when it leaves control of the voter and is turned over to the  
27 elections official. In the precinct, the ballot is cast when it is inserted into the ballot box. VBM

28



1 ballots are cast when they are submitted to the U.S. Postal Service or hand-delivered to a precinct or  
2 the Registrar of Voters.

3  
4 1% Manual Tally Options

5 There are two options for conducting the 1% manual tally, as specified in CEC Sec. 15360. The first  
6 is to tally 1% of all the precincts, poll ballots and VBM ballots. The second is to conduct the tally in  
7 two parts, one being the polls ballots, and one being the VBM ballots which are grouped into  
8 batches rather than being grouped by precinct.

9  
10 San Diego County conducts their 1% manual tally according to the second option. VBM ballots are  
11 grouped into "batches" with mixed precincts and mixed ballot types, with approximately 400 ballots  
12 per batch.

13  
14 Scope of Manual Tally

15 EXHIBIT C is the public notice of the manual tally procedure. It states that "Pursuant to State Law,  
16 a manual tally of at least 1% of the precincts and 1% of the mail ballots, selected at random, is  
17 required as part of the post-Election Day canvass of the election."

18  
19 We note there are no other categories or exclusions. The public notice does not say that "the manual  
20 tally includes 1% of the precinct ballots minus the provisional ballots and minus those omitted in  
21 the QC process." The public notice does not say that it is "1% of the mail ballots already processed,  
22 excluding about 285,000 ballots not yet processed."

23  
24 Elections law allows the Registrar to start counting VBM ballots early on Election Day prior to the  
25 close of polls, while withholding the resulting tally from the public until polls close at 8pm. The  
26 initial tally provided to the public and media at that time are VBM ballots that were received early  
27 in the process or voters who cast their ballot at the registrar's office.

1 After the polls close, polls ballots are transported from each polling place to the Registrar of Voters'  
2 office and they are scanned over the course of the night. The first step in this process is receiving  
3 the boxes of ballots from the precinct.

#### 4 5 QC Inspection Removal of Ballots

6 When received by the Registrar of Voters, The boxes are opened and the ballots are given an initial  
7 inspection. At this point, we learned that a number of ballots may be removed from the precinct  
8 box. In our review of the process in 2010, about 5% of the ballots were removed at this point for  
9 any of a number of reasons, such as additional marking, mutilation, etc. These ballots may be  
10 "remade" prior to scanning by a remaking group. These ballots are currently not included in the 1%  
11 manual tally process. We don't know how many ballots were removed in this fashion in this election  
12 because the ROV does not provide this information. We can, however, determine this number by  
13 reviewing the number of signatures on sign-in rosters and then subtracting the number actually  
14 scanned.

#### 15 16 Unofficial Results

17 Sometime early in the morning, the set of early VBM ballots has been scanned and all the normal  
18 (not provisional and not removed due to QC inspection) ballots from the precincts have been  
19 scanned. This forms the initial unofficial results of the election.

20  
21 At the end of election night, the website of the Registrar said that 285,000 ballots were yet to be  
22 counted. See Exhibit B, which is a snapshot of the header of that page the day after the election.

#### 23 24 Random selection of Precincts and Batches

25 The day after the election, the random selection is performed. The selection is done only on the set  
26 of ballots already processed (not including the 285,000 ballots mentioned as "still to be counted.")  
27  
28

1 We have asked the Registrar of Voters to delay this selection process so as to include all the VBM  
2 ballots but he refused. (See Exhibit F, email correspondence with Michael Vu.)

3  
4 Members of the public are requested to assist in the random selection of precincts and VBM  
5 batches. There are 1522 precinct in San Diego County. The selection of precincts is performed  
6 using three sets of ping pong balls marked 0-9 and one set of two ping pong balls marked with 0  
7 and 1. A member of the public selects one precinct out of 1522 by choosing one ball from each of  
8 the ones, tens, hundreds, and thousands containers. A total of 16 precincts are chosen in this  
9 manner. See Exhibit D.

10  
11 (In addition to these 16 precincts, precincts and races are chosen by the registrar to ensure that all  
12 races in the election are checked by a manual tally procedure. These additional precincts and races  
13 are added later.)

14  
15 Immediately after choosing the 16 precincts, a member of the public selects 1% of the VBM batches  
16 already scanned. This is done in a similar way to the selection of precincts, using ping pong balls.  
17 See Exhibit E for the batches selected.

18  
19 There were about 730 mail in "batches" included in the 1% manual tally selection process. If there  
20 are are 400 ballots in each batch, this represents about  $730 \times 400 = 292,000$  ballots included in the  
21 VBM tally process.

22  
23 Plaintiff attended the public selection process and video recorded the process. Plaintiff mentioned  
24 the discrepancy between the 730 batches and the fact that the 285,000 unprocessed VBM and  
25 provisionals was not included in the selection process. They said the 1% manual tally only includes  
26 the VBM ballots already scanned.

1 In this election, there was also an unusually high number of provisional ballots primarily due to No  
2 Party Preference (NPP) voters who have the option of choosing a partisan ballot only for the  
3 presidential race for most parties (but not the Republican party). These "crossover" ballots included  
4 the presidential race for that party, all the nonpartisan races, but not the strictly partisan races such  
5 as central committee members. In this election, the vast majority of cases were NPP voters choosing  
6 the DEM ballot so they could vote for Sen. Bernie Sanders.

7  
8 Strictly speaking, these ballots could have then be placed with the other ballots for the precinct but  
9 poll workers were taught to treat these as "provisional" ballots. The normal and most prevalent use  
10 of provisional ballots is to deal with a voter who normally is a VBM voter and who does not have  
11 his VBM ballot to turn in. If the voter accidentally also voted by mail, the VBM ballot would  
12 already have been received. The VBM ballot will be used and the poll ballot will not. Otherwise,  
13 the voter could unintentionally vote twice.

14  
15 Also, there were so many people requesting NPP/DEM ballots that many precincts ran out. In those  
16 cases, they opted to use a regular DEM ballot but omit the central committee race. These would also  
17 be treated as provisionals.

18  
19 According to answers by staff at the ROV, there were about 74,000 provisionals received.

20  
21 THE CONTROVERSY

22 Plaintiff asserts that the election code states clearly and succinctly that the 1% manual tally be  
23 performed in two parts, one part including 1% of all ballots cast at precincts (including provisional  
24 ballots and ballots removed in the QC inspection) and one part including 1% of all VBM ballots  
25 cast (including the VBM ballots already processed and those still in the queue to be processed).

1 Instead, the registrar included only about 290,000 VBM ballots in the set of batches that could be  
2 selected for the 1% manual tally process, choosing 8 batches, with each batch being about 400  
3 ballots.

4  
5 He did not include provisional ballots in the set of ballots included in the 1% manual tally. He did  
6 not include the ballots removed during QC inspection in the set audited by the manual tally. He did  
7 not include the VBM ballots still in the queue waiting to be processed in the 1% manual tally.

8  
9 Thus, with 290,000 VBM ballots available for audit in the 1% manual tally, but with about the same  
10 number waiting to be processed, instead of a 1% manual tally, this should be called the "half-of-  
11 one-percent manual tally."

12  
13 Without question, the Registrar is in violation of the clear intent of the law.

14  
15 OUR DEMAND

16 Plaintiff demands that:

17 1. A larger sample of VBM ballots be included in the manual tally process. The percentage must be  
18 at least 1% of the VBM ballots known to have been cast. In this case, it roughly double the number  
19 of batches originally selected are required.

20  
21 2. Essentially all VBM ballots and provisional ballots should be included in the set of ballots  
22 included in the manual tally process. By including these ballots in the process, more of the process  
23 is checked, including the ballots removed in the QC inspection.

24  
25 3. The definition for "batch" according to the election code "means a set of ballots tabulated by the  
26 voting system devices, for which the voting system can produce a report of the votes cast." Plaintiff  
27 asked for data files corresponding to the "report of the votes cast" for batches in the VBM manual  
28 tally and the Registrar refused to provide these files. In addition, our oversight protocol is

1 substantially enhanced if we get all the data files corresponding to the batches PRIOR TO the 1%  
2 manual tally selection process.

3  
4 4. The official election results should not be certified unless the 1% manual tally is performed  
5 according to the law.

6  
7 A judicial declaration is necessary and appropriate at this time under the circumstances in order that  
8 the process used by the Registrar of Voters in conduct of the election procedures will comply with  
9 the law as outlined above.

10  
11 Plaintiff requests a speedy hearing for declaratory judgment as time is of the essence to compel  
12 defendant to be compliant with the law in the current election cycle.

13  
14  
15 DATED: June 15, 2016

16   
RAYMOND LUTZ  
In Pro Per

6/15/2016

**EXHIBIT A****ELECTIONS CODE  
SECTION 15360**

15360. (a) During the official canvass of every election in which a voting system is used, the official conducting the election shall conduct a public manual tally of the ballots tabulated by those devices, including vote by mail ballots, using either of the following methods:

(1) (A) A public manual tally of the ballots, including vote by mail ballots, cast in 1 percent of the precincts chosen at random by the elections official. If 1 percent of the precincts is less than one whole precinct, the tally shall be conducted in one precinct chosen at random by the elections official.

(B) (i) In addition to the 1 percent manual tally, the elections official shall, for each race not included in the initial group of precincts, count one additional precinct. The manual tally shall apply only to the race not previously counted.

(ii) Additional precincts for the manual tally may be selected at the discretion of the elections official.

(2) A two-part public manual tally, which includes both of the following:

(A) A public manual tally of the ballots, not including vote by mail ballots, cast in 1 percent of the precincts chosen at random by the elections official and conducted pursuant to paragraph (1).

(B) (i) A public manual tally of not less than 1 percent of the vote by mail ballots cast in the election. Batches of vote by mail ballots shall be chosen at random by the elections official.

(ii) For the purposes of this section, a "batch" means a set of ballots tabulated by the voting system devices, for which the voting system can produce a report of the votes cast.

(iii) (I) In addition to the 1 percent manual tally of the vote by mail ballots, the elections official shall, for each race not included in the initial 1 percent manual tally of vote by mail ballots, count one additional batch of vote by mail ballots. The manual tally shall apply only to the race not previously counted.

(II) Additional batches for the manual tally may be selected at the discretion of the elections official.

(b) If vote by mail ballots are cast on a direct recording electronic voting system at the office of an elections official or at a satellite location of the office of an elections official pursuant to Section 3018, the official conducting the election shall either include those ballots in the manual tally conducted pursuant to paragraph (1) or (2) of subdivision (a) or conduct a public manual tally of those ballots cast on no fewer than 1 percent of all the direct recording electronic voting machines used in that election chosen at random by the elections official.

(c) The elections official shall use either a random number generator or other method specified in regulations that shall be adopted by the Secretary of State to randomly choose the initial precincts, batches of vote by mail ballots, or direct recording electronic voting machines subject to the public manual tally.

(d) The manual tally shall be a public process, with the official conducting the election providing at least a five-day public notice of the time and place of the manual tally and of the time and place of the selection of the precincts, batches, or direct recording electronic voting machines subject to the public manual tally prior to conducting the selection and tally.

(e) The official conducting the election shall include a report on the results of the 1 percent manual tally in the certification of the official canvass of the vote. This report shall identify any discrepancies between the machine count and the manual tally and a description of how each of these discrepancies was resolved. In resolving any discrepancy involving a vote recorded by means of a punchcard voting system or by electronic or electromechanical vote tabulating devices, the voter verified paper audit trail shall govern if there is a discrepancy between it and the electronic record.

## EXHIBIT B

Heading on results page of San Diego ROV website the morning after the election

**PRIMARY  
ELECTION**

**COUNTY OF SAN DIEGO  
PRESIDENTIAL PRIMARY ELECTION  
Tuesday, June 7, 2016**

**THESE RESULTS ARE UNOFFICIAL**  
Last updated on: 06-08-16 at: 03:21:51

There are APPROXIMATELY 285000 Mail / Provisional ballots still to be counted



**EXHIBIT C****PUBLIC NOTICE OF MANUAL TALLY FROM SAN DIEGO ROV WEBSITE****Public Notice**

Pursuant to State Law, a manual tally of at least 1% of the precincts and 1% of the mail ballots, selected at random, is required as part of the post-Election Day canvass of the election.

This process, as are all components of the official canvass of results, is open to public observation. State Law provides 30 days to complete the canvass prior to certification of the election results.

The random selections of 1% of precincts and mail ballots to be manually tallied for the June 7<sup>th</sup>, 2016 Presidential Primary Election will commence on:

Wednesday, June 8<sup>th</sup>, at 3:00 p.m.

The actual manual tally of the votes cast on these selected precinct and mail ballots will commence on:

Monday, June 13<sup>th</sup>, at 9:00 a.m.

The manual tally will be conducted each day, until completed, during normal business hours, Monday through Friday, from 8:00 a.m. to 4:30 p.m. If needed, manual tally hours could be extended to evenings until 8:00 pm and/or weekends.

If interested in observing this process, please contact Diane Elsheikh at 858-505-7225.

**EXHIBIT D**

ROV list of precincts

Precincts

Sequence	Count/Total
52	110150
363	237200
368	140000
418	270010
597	175700
637	403500
670	404250
686	405400
857	420520
877	421500
991	442800
1239	487000
1339	508700
1418	538500
1431	540600
1454	549280

**EXHIBIT E**

List of VBM Batches selected

**1% Random Draw: June 8, 2016**

	MAX BATCH
1	152
2	173
3	198
4	257
5	425
6	574
7	640
8	750

750 is not an existing trial batch. On 6/16, batch 750 was replaced by a number of the prior as a replacement.

EXHIBIT F

Email correspondence with Michael Vu. He refuses to follow the law to include 1% of all VBM ballots cast.

Subject: RE: 1% Manual Tally  
From: "Vu, Michael" <Michael.Vu@sdcountry.ca.gov>  
Date: 06/13/2016 7:43 PM  
To: Ray Lutz <raylutz@citizenoversight.org>  
CC: "electionintegrity@citizenoversight.org" <electionintegrity@citizenoversight.org>

Good Evening, Mr. Lutz.

To accommodate those that were in attendance for the initial pull, I will make arrangements to have a separate mail ballot batch pulled on Thursday, June 16 at 9 am.

With regard to your second concern, we respectfully decline your request.

Kind Regards,

Michael

MICHAEL VU | REGISTRAR OF VOTERS | 858-585-7281 | SOVOTE.COM

-----Original Message-----

From: Ray Lutz [mailto:raylutz@citizenoversight.org]  
Sent: Friday, June 10, 2016 2:34 PM  
To: Vu, Michael  
Cc: electionintegrity@citizenoversight.org  
Subject: Re: 1% Manual Tally

Michael:

Thank you for the update.

Two Problems:

1) I don't think you gave sufficient public notice of that public draw, as we were unable to attend. Please provide the required public notice (72 hours I think) and redraw that additional batch (plus the issue below).

2) While we are talking about the 1% manual tally, we would like to complain that the 1% of the batches pulled in the random draw DOES NOT represent 1% of the mail ballot batches expected in the election, but is 1% of the number of batches completed so far. A larger number of batches is required to meet the 1% random draw legal requirement, because it is 1% of the total, not 1% of the number processed so far. We understand that about 290,000 VBM ballots were included in the initial batches and an additional 285,000 ballots were left to be counted according to your website the morning of the draw. Thus, with 400 ballots in each batch, the total number of batches is 290K+285K=575K ballots / 400 ballots per batch = 1438 batches; 1% (rounding up) would be 15 batches. You chose only 7 batches. Please make this correction and chose an additional 8 batches.

--Ray Lutz

On 06/10/2016 8:39 AM, Vu, Michael wrote:  
The batch that doesn't exist is 719.

Sent from my iPhone

On Jun 10, 2016, at 8:24 AM, Vu, Michael <[Michael.Vu@sdcountry.ca.gov](mailto:Michael.Vu@sdcountry.ca.gov)> wrote:

Ray:

It has come to my attention that when we pulled the random draw of one of our mail ballot batches, the batch number doesn't exist. As a result, we will need to randomly select another batch. It is my understanding that you were present when the draw was made and wanted to apprise you of this issue.

To resolve this situation, we will be publicly drawing another mail ballot batch to get to the needed 1% at 10 am this morning.

Should you have any questions, please let me know.

mv

Sent from my iPhone

Ray Lutz  
Citizens' Oversight Projects (COPs)  
<http://www.citizensoversight.org>  
619-820-5321

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  
Raymond Lutz  
Pro Per  
1010 Old Chase Ave.  
El Cajon, CA 92020  
TELEPHONE NO.: 619-820-5321  
ATTORNEY FOR (Name):

FOR COURT USE ONLY  
FILED  
BUSINESS OFFICE 4  
CENTRAL DIVISION  
0033

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego  
STREET ADDRESS: 220 West Broadway  
MAILING ADDRESS:  
CITY AND ZIP CODE: San Diego CA 92101  
BRANCH NAME: Central

2016 JUN 16 AM 10:02  
CLERK OF SUPERIOR COURT  
SAN DIEGO COUNTY, CA

CASE NAME:  
Lutz vs. Vu

**CIVIL CASE COVER SHEET**  
 Unlimited (Amount demanded exceeds \$25,000)  
 Limited (Amount demanded is \$25,000 or less)

**Complex Case Designation**  
 Counter  Joinder  
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:  
37-2016-00020273-CL-MC-CTL  
JUDGE:  
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)	<b>Provisionally Complex Civil Litigation</b> (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
<b>Other PIPD/W (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIPD/W (23)	<b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26)	<b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20)
<b>Non-PIPD/W (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIPD/W tort (35)	<b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)	<b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input checked="" type="checkbox"/> Other complaint (not specified above) (42)
<b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re; arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive

4. Number of causes of action (specify): 1 - Declaratory Relief

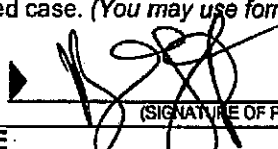
5. This case  is  is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: June 14, 2016

Raymond Lutz

(TYPE OR PRINT NAME)

 6/14/2016  
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

## Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

## Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death  
Product Liability (*not asbestos or toxic/environmental*) (24)  
Medical Malpractice (45)  
Medical Malpractice—Physicians & Surgeons  
Other Professional Health Care Malpractice  
Other PI/PD/WD (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/PD/WD

## Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice (*not medical or legal*)  
Other Non-PI/PD/WD Tort (35)

## Employment

Wrongful Termination (36)  
Other Employment (15)

## Contract

Breach of Contract/Warranty (06)  
Breach of Rental/Lease  
Contract (*not unlawful detainer or wrongful eviction*)  
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case—Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage (*not provisionally complex*) (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

## Real Property

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

## Unlawful Detainer

Commercial (31)  
Residential (32)  
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

## Judicial Review

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ—Administrative Mandamus  
Writ—Mandamus on Limited Court Case Matter  
Writ—Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal—Labor Commissioner Appeals

## Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

## Enforcement of Judgment

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (*non-domestic relations*)  
Sister State Judgment  
Administrative Agency Award (*not unpaid taxes*)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

## Miscellaneous Civil Complaint

RICO (27)  
Other Complaint (*not specified above*) (42)  
Declaratory Relief Only  
Injunctive Relief Only (*non-harassment*)  
Mechanics Lien  
Other Commercial Complaint Case (*non-tort/non-complex*)  
Other Civil Complaint (*non-tort/non-complex*)

## Miscellaneous Civil Petition

Partnership and Corporate Governance (21)  
Other Petition (*not specified above*) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition

**SUMMONS  
(CITACION JUDICIAL)**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)  
CIVIL BUSINESS DIVISION  
CENTRAL DIVISION  
  
2016 JUN 15 AM 9:58  
  
CLERK-SUPERIOR COURT  
SAN DIEGO COUNTY, CA

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

MICHAEL VU  
HELEN N. ROBBINS-MEYER

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

RAYMOND LUTZ

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):

SAN DIEGO COUNTY SUPERIOR COURT

CASE NUMBER:  
(Número del Caso):

37-2016-00020273-CL-MC-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

RAYMOND LUTZ, PROPER  
1010 OLD CLARE AVE, EL CAJON CA 92020 619-820-5321

DATE:  
(Fecha) 6/16/2016

Clerk, by  
(Secretario) M. Reyes Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



**NOTICE TO THE PERSON SERVED:** You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):  
under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)  
 other (specify):
- by personal delivery on (date):



SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
CENTRAL

0036

MINUTE ORDER

DATE: 06/23/2016 TIME: 08:30:00 AM DEPT: C-72

JUDICIAL OFFICER PRESIDING: Timothy Taylor

CLERK: Juanita Cerda

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT: O. Godoy

CASE NO: 37-2016-00020273-CL-MC-CTL CASE INIT.DATE: 06/16/2016

CASE TITLE: Lutz vs Michael Vu [IMAGED]

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

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EVENT TYPE: Ex Parte

---

**APPEARANCES**

Raymond Lutz, self represented Plaintiff, present.

Timothy Barry, counsel, present for County of San Diego

Alan Geraci, counsel, present for Raymond Lutz

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The Court hears argument by counsel on Plaintiff's ex parte for scheduling order shortening time on Plaintiff's application for preliminary injunction and rules as follows:

**Order Denying *Ex Parte* Request for TRO/OSC but Granting Order Shortening Time**

*Lutz v. Vu*, Case No. 2016-20273

June 23, 2016, 8:30 a.m., Dept. 72

**1. Overview and Procedural Posture.**

In this case, plaintiff seeks a declaratory judgment to the effect that the San Diego County Registrar of Voters is "not in compliance with California Elections Code regarding the number of Vote-by-Mail (VBM) ballots hand-counted in the 1% manual tally." He filed his one count complaint on June 16, 2016, after an exchange of email communiques with defendant.

The case is assigned to Judge Wolfeil in Dept. 73. He is on vacation this week. Thus, the case is in Dept. 72 for just this one hearing.

Defendants have not filed a responsive pleading. Plaintiff has not filed a proof of service of the summons and complaint. Plaintiff was previously *in propria persona*, but substituted in counsel at the *ex parte* hearing. New counsel stated he contemplates the immediate filing of a first amended complaint.



County Counsel indicated a courtesy copy of same has been provided to him.

0037

Plaintiff has twice scheduled an ex parte application for a TRO. ROA 8-12. He had filed no moving papers until the morning of the hearing.

## 2. Applicable Standards.

**A.** A threshold requirement for declaratory relief is the existence of a justiciable dispute. The declaratory judgment statute expressly provides that declaratory relief is available to parties to contracts or written instruments "in cases of actual controversy relating to the legal rights and duties of the respective parties." (Code Civ. Proc., § 1060, italics added.) Because Code of Civil Procedure section 1060 "makes the presence of an 'actual controversy' a jurisdictional requirement to the grant of declaratory relief" (*Environmental Defense Project of Sierra County v. County of Sierra* (2008) 158 Cal.App.4th 877, 885 (*Environmental Defense Project*)), a "court is only empowered to declare and determine the rights and duties of the parties 'in cases of actual controversy'" (*Pittenger v. Home Savings & Loan Assn.* (1958) 166 Cal.App.2d 32, 36 (*Pittenger*)). For this reason, the existence of an "'actual, present controversy'" is "'fundamental'" to an action for declaratory relief. (*City of Cotati v. Cashman* (2002) 29 Cal.4th 69, 79 (*Cashman*); *In re Claudia E.* (2008) 163 Cal.App.4th 627, 639.)

One requirement for a justiciable controversy is ripeness: there must be a dispute between adverse parties on a specific set of facts that has reached the point that an invasion of one party's rights is likely unless the court orders relief and enters a conclusive judgment declaring the parties' rights and obligations. (See, e.g., *Pacific Legal Foundation v. California Coastal Com.* (1982) 33 Cal.3d 158, 170-171 (*Pacific Legal Foundation*); *Selby Realty Co. v. City of San Buenaventura* (1973) 10 Cal.3d 110, 117 (*Selby Realty*); *County of San Diego v. State of California* (2008) 164 Cal.App.4th 8.)

There is no basis for declaratory relief where only past wrongs are involved. *Baldwin v. Marina City Properties, Inc.* (1978) 79 Cal.App.3d 393, 407.

**B.** *Ex parte* applications are governed by CRC 3.1200 *et seq.* As already pointed out, plaintiff filed no timely *ex parte* papers, so he has complied with none of these requirements.

**C.** The decision whether to grant a *pendente lite* injunction is within the trial court's discretion. *IT Corp v. County of Imperial* (1983) 35 Cal. 3d 63, 69. The trial court must evaluate two interrelated factors when deciding whether to issue such an injunction: (1) the likelihood the Plaintiff will prevail on the merits at trial; and (2) the interim harm that will occur if the injunction is denied as compared with the harm that the Defendant would be likely to suffer if the preliminary injunction were issued. *Department of Fish & Game v. Anderson-Cottonwood Irrig. Dist.* (1992) 8 Cal. App. 4th 1554, 1560.

## 3. Ruling.

The *ex parte* application was called in to the calendar clerk as one seeking a TRO. This request is denied. Plaintiff has failed to follow the rules, and has failed to demonstrate a likelihood of success on the merits.

Newly appointed counsel reframed the *ex parte* application as one seeking a specially set hearing, in light of plaintiff's desire to have this matter heard before the completion of the current election cycle. The parties agreed the election results are due to be certified by close of business on July 7. The court granted the modified request, and set the matter on Judge Wohlfeil's calendar for July 6 at 1:30 p.m.

The court also set a briefing schedule as set forth on a formal order signed this date.

0038

**IT IS SO ORDERED.**



---

Judge Timothy Taylor

1 Alan L. Geraci, Esq. SBN108324  
2 CARE Law Group PC  
3 817 W. San Marcos Blvd.  
4 San Marcos, CA 92078  
5 619-231-3131 telephone  
6 760-650-3484 facsimile  
7 alan@carelaw.net email

**F I L E D**  
Clerk of the Superior Court

JUN 23 2016

By: J. CERDA

8 Attorney for Plaintiffs, Citizens Oversight Inc. and Raymond Lutz

9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO—CENTRAL DIVISION**

11 CITIZENS OVERSIGHT INC., a Delaware )  
12 non-profit corporation; RAYMOND LUTZ, )  
13 an individual, )

14 Plaintiffs, )

15 vs. )

16 MICHAEL VU, San Diego Registrar of )  
17 Voters; HELEN N. ROBBINS-MEYER, )  
18 San Diego County Chief Administrative )  
19 Officer; COUNTY OF SAN DIEGO, a )  
20 public entity; DOES 1-10, )

21 Defendants. )

CASE NO: 37-2016-00020273-CL-MC-CTL

**EX PARTE APPLICATION FOR  
SCHEDULING ORDER SHORTENING  
TIME ON PLAINTIFFS' APPLICATION  
FOR PRELIMINARY INJUNCTION**

**Hon. Joel R. Wohlfeil, Judge**

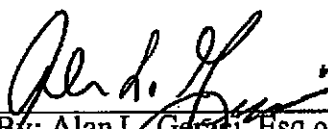
Complaint filed: June 16, 2016  
No Trial Date Set

Ex Parte Hearing: June 23, 2016  
Hearing Time: 8:30 a.m.  
Department: 73

22 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

23 Plaintiffs Citizens Oversight Inc. and Raymond Lutz, hereby apply for an order of this  
24 Court to shorten time for hearing and briefing of the Plaintiffs' Motion for Preliminary  
25 Injunction. Plaintiffs' Complaint seeks Declaratory and Injunctive Relief concerning Defendants  
26 duties under California Election Code Section 15360. Plaintiffs require this order so that the  
27 Defendants, and each of them, do not make the issues of Plaintiffs' Complaint moot by certifying  
28 the Primary Election results of June 7, 2016.

Dated: June 22, 2016

  
By: Alan L. Geraci, Esq of CARE Law  
Group PC, Attorneys for Plaintiffs Citizens  
Oversight Inc. and Raymond Lutz

1 Alan L. Geraci, Esq. SBN108324  
2 CARE Law Group PC  
3 817 W. San Marcos Blvd.  
4 San Marcos, CA 92078  
5 619-231-3131 telephone  
6 760-650-3484 facsimile  
7 alan@carelaw.net email

8 Attorney for Plaintiffs Citizens Oversight Inc. and Raymond Lutz

9  
10  
11

12 **SUPERIOR COURT OF CALIFORNIA**  
13 **COUNTY OF SAN DIEGO—CENTRAL DIVISION**

14 CITIZENS OVERSIGHT INC., a Delaware  
15 non-profit corporation; RAYMOND LUTZ,  
16 an individual,

17 Plaintiffs,

18 vs.

19 MICHAEL VU, San Diego Registrar of  
20 Voters; HELEN N. ROBBINS-MEYER,  
21 San Diego County Chief Administrative  
22 Officer; COUNTY OF SAN DIEGO, a  
23 public entity; DOES 1-10,

24 Defendants.

CASE NO: 37-2016-00020273-CL-MC-CTL

**DECLARATION OF ALAN L. GERACI IN  
SUPPORT OF EX PARTE APPLICATION  
FOR SCHEDULING ORDER  
SHORTENING TIME ON PLAINTIFFS'  
APPLICATION FOR PRELIMINARY  
INJUNCTION**

Hon. Joel R. Wohlfeil, Judge

Complaint filed: June 16, 2016  
No Trial Date Set

Ex Parte Hearing: June 23, 2016  
Hearing Time: 8:30 a.m.  
Department: 73

25 I, Alan L. Geraci, declare as follows:

- 26 1. I am an attorney at law licensed to practice before the courts of the State of California. I  
27 am attorney of record for Plaintiffs Citizens Oversight Inc. and Raymond Lutz,  
28 concomitantly filing a Substitution of Attorney for such purpose.
2. I have personal knowledge of the matters stated herein unless stated under information  
and belief, in which case I believe said matter to be true and correct.
3. Plaintiffs Citizens Oversight Inc. and Raymond Lutz, hereby apply for an order of this  
Court to shorten time for hearing and briefing of the Plaintiffs' Motion for Preliminary  
Injunction. Plaintiffs' Complaint seeks Declaratory and Injunctive Relief concerning

**FILED** 0040  
Clerk of the Superior Court  
JUN 23 2016  
By: J. CERDA

1 Defendants duties under California Election Code Section 15360. Plaintiffs require this  
2 order so that the Defendants, and each of them, do not make the issues of Plaintiffs'  
3 Complaint moot by certifying the Primary Election results of June 7, 2016.

4 4. On June 20, 2016, I had a telephone conversation with Chief Deputy County Counsel,  
5 Timothy Barry concerning the general allegations of the complaint, potential resolution of  
6 the complaint, and general scheduling matters. He and I agreed to accept further service  
7 of papers and pleadings involved in this matter by electronic service. I know his official  
8 email address to be Timothy.Barry@sdcounty.ca.gov.

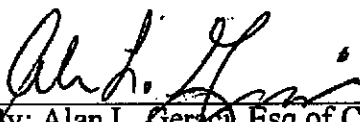
9 5. On June 21, 2016, I sent an email to Mr. Barry's email address stating that Plaintiff has  
10 scheduled the instant *ex parte* hearing for the sole purpose of discussing scheduling of  
11 briefs and hearing on Plaintiff's Motion for Preliminary Injunction. He replied with a  
12 general acknowledgment of receipt of same.

13 6. Pursuant to the California Elections Code, an election must be certified within 30 days of  
14 the election date. In this case, that would be on or before July 7, 2016. To effect a  
15 meaningful hearing of the gravamen Plaintiffs' Complaint (First Amended Complaint), a  
16 hearing needs to occur before the results are certified.

17 7. On behalf of Plaintiffs, I request that an order be issued shortening the time for a hearing  
18 and briefing so that a meaningful hearing may occur.

19 I declare under penalty of perjury that the foregoing is true and correct.

20  
21 Dated: June 22, 2016

  
By: Alan L. Geraci, Esq of CARE Law  
Group PC, Attorneys for Plaintiffs Citizens  
Oversight Inc. and Raymond Lutz

VERIFICATION

FILED  
Clerk of the Superior Court

STATE OF CALIFORNIA, COUNTY OF

0042

JUN 23 2016

I have read the foregoing \_\_\_\_\_

and know its contents.

CHECK APPLICABLE PARAGRAPHS

By: J. CERCI

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am  an Officer  a partner \_\_\_\_\_  a \_\_\_\_\_ of \_\_\_\_\_

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason.  I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.  The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for \_\_\_\_\_ a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on \_\_\_\_\_, at \_\_\_\_\_, California.

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

Type or Print Name

Signature

PROOF OF SERVICE

1013a (3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF San Diego

I am employed in the county of San Diego, State of California.

I am over the age of 18 and not a party to the within action; my business address is: 817 W. San Marcos Blvd, San Marcos, CA 92078

On, 6/23/2016 I served the foregoing document described as Ex Parte Application for Scheduling Order, etc.

\_\_\_\_\_ on \_\_\_\_\_ in this action

by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:

by placing  the original  a true copy thereof enclosed in sealed envelopes addressed as follows:

Timothy Barry, Chief Deputy, Office of the San Diego County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101

Timothy.Barry@sdcounty.ca.gov

BY MAIL

\*I deposited such envelope in the mail at \_\_\_\_\_, California.

The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing.

Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at \_\_\_\_\_ California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on \_\_\_\_\_, at \_\_\_\_\_, California.

\*(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

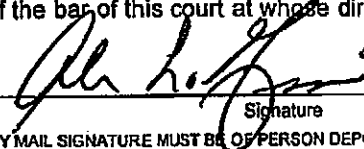
Executed on 6/23/2016, at San Diego, California.

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

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Alan L. Geraci

Type or Print Name



Signature

\*(BY MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG)

\*(FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Alan L. Geraci SBN108324</b> <b>CARE Law Group PC</b> <b>817 W. San Marcos Blvd.</b>  <b>San Marcos, CA 92078</b> TELEPHONE NO.: <b>619-261-2048</b> FAX NO. (Optional): <b>760-650-3484</b> E-MAIL ADDRESS (Optional): <b>alan@carelaw.net</b> ATTORNEY FOR (Name): <b>Plaintiff Ray Lutz</b>		FOR COURT USE ONLY <div style="text-align: right; font-size: 2em;">0043</div>  <div style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 0.8em;">Clerk of the Superior Court</div> <div style="text-align: center; font-size: 1.2em; font-weight: bold;">JUN 23 2016</div> <div style="text-align: center;">By: J. CERDA</div>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego</b> STREET ADDRESS: <b>330 W. Broadway</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>San Diego, CA 92101</b> BRANCH NAME: <b>Central</b> CASE NAME: <b>Lutz v. Vu, et al.</b>		
<b>SUBSTITUTION OF ATTORNEY—CIVIL</b> <b>(Without Court Order)</b>		CASE NUMBER: <b>37-2016-00020273</b>

THE COURT AND ALL PARTIES ARE NOTIFIED THAT (name): **Plaintiff Raymond Lutz** makes the following substitution:

1. Former legal representative  Party represented self  Attorney (name):
2. New legal representative  Party is representing self\*  Attorney **CARE Law Group PC**
  - a. Name: **Alan L. Geraci, Esq.**
  - b. State Bar No. (if applicable): **108324**
  - c. Address (number, street, city, ZIP, and law firm name, if applicable): **817 W. San Marcos Blvd., San Marcos, CA 92078**
  - d. Telephone No. (include area code): **619-231-3131**
3. The party making this substitution is a  plaintiff  defendant  petitioner  respondent  other (specify):


**\*NOTICE TO PARTIES APPLYING TO REPRESENT THEMSELVES**

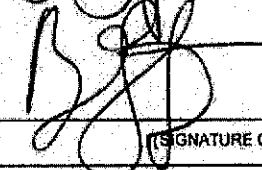
- Guardian
- Personal Representative
- Guardian ad litem
- Conservator
- Probate fiduciary
- Unincorporated association
- Trustee
- Corporation

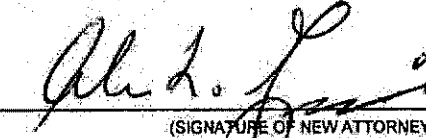
If you are applying as one of the parties on this list, you may NOT act as your own attorney in most cases. Use this form to substitute one attorney for another attorney. SEEK LEGAL ADVICE BEFORE APPLYING TO REPRESENT YOURSELF.

**NOTICE TO PARTIES WITHOUT ATTORNEYS**  
 A party representing himself or herself may wish to seek legal assistance. Failure to take timely and appropriate action in this case may result in serious legal consequences.

4. I consent to this substitution.  
 Date: **6/22/2016**  
Raymond Lutz  
(TYPE OR PRINT NAME)

  
**6/23/2016**  
(SIGNATURE OF PARTY)
5.  I consent to this substitution.  
 Date: **6/22/2016**  
Raymond Lutz  
(TYPE OR PRINT NAME)

  
**6/23/2016**  
(SIGNATURE OF FORMER ATTORNEY)
6.  I consent to this substitution.  
 Date: **6/22/2016**  
Alan L. Geraci, Esq.  
(TYPE OR PRINT NAME)

  
(SIGNATURE OF NEW ATTORNEY)

(See reverse for proof of service by mail)

CASE NAME: Lutz v. Vu, et al

CASE NUMBER:  
37-2016-00020273

0044

**PROOF OF SERVICE BY MAIL  
Substitution of Attorney—Civil**

**Instructions:** After having all parties served by mail with the Substitution of Attorney—Civil, have the person who mailed the document complete this Proof of Service by Mail. An unsigned copy of the Proof of Service by Mail should be completed and served with the document. Give the Substitution of Attorney—Civil and the completed Proof of Service by Mail to the clerk for filing. If you are representing yourself, someone else must mail these papers and sign the Proof of Service by Mail.

1. I am over the age of 18 and not a party to this cause. I am a resident of or employed in the county where the mailing occurred. My residence or business address is (specify): 817 W. San Marcos Blvd., San Marcos, CA 92078

2. I served the Substitution of Attorney—Civil by enclosing a true copy in a sealed envelope addressed to each person whose name and address is shown below and depositing the envelope in the United States mail with the postage fully prepaid.

(1) Date of mailing: 6/22/2016

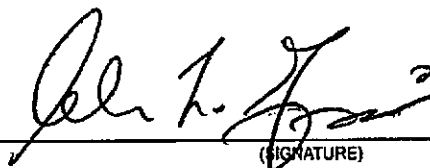
(2) Place of mailing (city and state): San Marcos, CA

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

Date: 6/22/2016

Alan L. Geraci

(TYPE OR PRINT NAME)



(SIGNATURE)

**NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED**

4. a. Name of person served: Timothy Barry, Chief Deputy  
b. Address (number, street, city, and ZIP): Office of the County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101

c. Name of person served:

d. Address (number, street, city, and ZIP):

e. Name of person served:

f. Address (number, street, city, and ZIP):

g. Name of person served:

h. Address (number, street, city, and ZIP):

i. Name of person served:

j. Address (number, street, city, and ZIP):

List of names and addresses continued in attachment.

RECEIVED  
JUN 23 2016  
F. J. ...



**FILED**  
Clerk of the Superior Court

**JUN 23 2016**

By: J. CERDA

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN DIEGO-CENTRAL DIVISION**

CITIZENS OVERSIGHT INC., a Delaware  
non-profit corporation; RAYMOND LUTZ,  
an individual,

Plaintiffs,

vs.

MICHAEL VU, San Diego Registrar of  
Voters; HELEN N. ROBBINS-MEYER,  
San Diego County Chief Administrative  
Officer; COUNTY OF SAN DIEGO, a  
public entity; DOES 1-10,

Defendants.

CASE NO: 37-2016-00020273-CL-MC-CTL

**SCHEDULING ORDER SHORTENING  
TIME ON PLAINTIFFS' APPLICATION  
FOR PRELIMINARY INJUNCTION**

**Hon. Joel R. Wohlfeil, Judge**

Complaint filed: June 16, 2016  
No Trial Date Set

*Ex Parte* Hearing: June 23, 2016  
Hearing Time: 8:30 a.m.  
Department: ~~7572~~

Plaintiffs, Citizens Oversight Inc. and Raymond Lutz, bring an *ex parte* application for a scheduling order so Plaintiffs may bring a motion for preliminary injunction concerning the primary election which occurred in the County of San Diego on June 7, 2016, and must be certified on or before July 7, 2016. Alan L. Geraci, Esq. of CARE Law Group PC appeared for Plaintiffs. Timothy Barry, Chief Deputy County Counsel appeared for all Defendants.

After review of all pleadings and hearing from counsel the Court grants Plaintiffs' application and issues the following briefing schedule and schedules the following hearing date:

Plaintiffs' Motion for Preliminary Injunction and supporting papers to be filed by June 24, 2016 and served. Defendants' opposition and supporting papers to be filed by June 24, 2016 and served.

0046 d served

1 June 30, 2016 . Plaintiffs' reply and further supporting papers to be filed by noon on

2 July 5, 2016 . A hearing on the Motion for Preliminary Injunction to be

3 conducted in Department 73, Hon. Joel R. Wohlfeil, Judge presiding on

4 July 6, 2016 at 1:30 p.m.

5  
6 So Ordered:

7 Dated: June 23, 2016

  
Judge of the Superior Court

8 **Timothy B. Taylor**

9 Additional Orders:

- 10 1) Parties have agreed to electronic service.
- 11 2) The papers should be filed as they normally
- 12 would be, but in addition, due to the
- 13 short time frames, courtesy copies should
- 14 be delivered to Dept. 73
- 15 3) The FAC is ordered filed today,
- 16 June 23, 2016.
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- 27
- 28

0047

CIVIL DIVISION  
CENTRAL DIVISION  
16 JUN 23 AM 11:04  
CLERK-SUPERIOR COURT  
SAN DIEGO COUNTY, CA

1 Alan L. Geraci, Esq. SBN108324  
2 CARE Law Group PC  
3 817 W. San Marcos Blvd.  
4 San Marcos, CA 92078  
5 619-231-3131 telephone  
6 760-650-3484 facsimile  
7 alan@carelaw.net email

8 Attorney for Plaintiffs, Citizens Oversight Inc., and Raymond Lutz

9 SUPERIOR COURT OF CALIFORNIA  
10 COUNTY OF SAN DIEGO—CENTRAL DIVISION—

11 CITIZENS OVERSIGHT INC., a Delaware )  
12 non-profit corporation; RAYMOND LUTZ, )  
13 an individual, )  
14 Plaintiffs, )  
15 vs. )  
16 MICHAEL VU, San Diego Registrar of )  
17 Voters; HELEN N. ROBBINS-MEYER, )  
18 San Diego County Chief Administrative )  
19 Officer; COUNTY OF SAN DIEGO, a )  
20 public entity; DOES 1-10, )  
21 Defendants. )

CASE NO: 37-2016-00020273-CL-MC-CTL  
FIRST AMENDED COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF  
Hon. Joel R. Wohlfeil, Judge  
Complaint filed: June 16, 2016  
No Trial Date Set

20 COMES NOW, Plaintiffs who allege as follows:

21 Parties:

- 22 1. Plaintiff, Citizens Oversight Inc., is a Delaware non-profit corporation which conducts  
23 election oversight nationwide as a watchdog of election processes, doing business in the  
24 County of San Diego.  
25 2. Plaintiff, Raymond Lutz, is a resident and registered voter in the County of San Diego  
26 unincorporated area. He is also the National Coordinator of CitizensOversight.org, and  
27 has conducted extensive reports and reviews of the election processes used in San Diego  
28 county since 2008, including a top-to-bottom report regarding the 2010 election.

- 1 3. Defendant Michael Vu, San Diego County Registrar of Voters ("Registrar") has held
- 2 that office since 2007 and is responsible for conducting election procedures in
- 3 compliance with California State Law, including the California State Elections Code.
- 4 4. Defendant Helen N. Robbins-Meyer, Chief Administrative Officer, County of San Diego,
- 5 has ultimate responsibility for operation of the County of San Diego to ensure compliance
- 6 with all laws, including compliance with the California Elections Code, maintains an
- 7 office at the County Administration Building located in the City of San Diego at 1600
- 8 Pacific Highway, Rm 166, San Diego, CA, 92101. Robbins-Meyers is the supervisor to
- 9 Michael Vu.
- 10 5. Defendant County of San Diego is a public entity organized in the State of California and
- 11 operates as an election district under the California State Election Code, with principle
- 12 offices in the County Administration Building, 1600 Pacific Highway, San Diego,
- 13 California 92101.

14 **Summary of Case:**

- 15 6. The San Diego County Registrar of Voters is not in compliance with California Elections
- 16 Code regarding the number of Vote-by-Mail (VBM) ballots hand-counted in the 1%
- 17 manual tally and requests that the Registrar of Voters comply with the law by,
- 18 (a) including all VBM ballots in the calculation of the required number of
- 19 batches to achieve one-percent, and, thus the number of VBM batches will
- 20 increase from 8 to approximately 15;
- 21 (b) including all VBM ballot batches in the selection of batches involved in
- 22 the 1% manual tally;
- 23 (c) including all provisional ballots and ballots removed during QC inspection
- 24 in the 1% manual tally; and
- 25 (d) produce all data file(s) that reflect the tally of votes in each batch counted
- 26 to be available to the public so a direct comparison can be made between
- 27 the results of scanning the batch and the results achieved in the hand-tally
- 28 process.

1 **Background:**

2 7. California Election Code Section 15360 (full text attached as "Exhibit A") describes the  
3 activities required in conduct of processing the votes with regard to the "1% Manual  
4 Tally". The applicable section of the law is as follows:

5 15360 (a) (2) A two-part public manual tally, which  
6 includes both of the following:

7 (A) A public manual tally of the ballots, not  
8 including vote by mail ballots, cast in 1 percent  
9 of the precincts chosen at random by the elections  
10 official and conducted pursuant to paragraph (1).

11 (B) (i) A public manual tally of not less than 1  
12 percent of the vote by mail ballots cast in the  
13 election. Batches of vote by mail ballots shall be  
14 chosen at random by the elections official. (ii)  
15 For the purposes of this section, a "batch" means  
16 a set of ballots tabulated by the voting system  
17 devices, for which the voting system can produce  
18 a report of the votes cast.

19 8. Defendants do not have, or have not produced on Plaintiffs' written request, a written  
20 procedural manual describing how they, and each of them, will conduct a 1% manual  
21 tally to comply with Election Code Section 15360(a)(2).

22 9. The 1% manual tally is conducted by teams of workers who carefully manually count and  
23 tally votes of all the ballots in selected precincts. One use of the 1% manual tally  
24 is to detect discrepancies and any possible computer programming errors. However,  
25 election integrity advocates also see the 1% manual tally as a means to ensure larger  
26 integrity of the vote-counting process. The 1% manual tally, with careful oversight, can  
27 also a check on the integrity of the workers at the Registrar and can detect hackers from  
28 the outside who may alter the vote in the central tabulator. Regardless of the stated

1 purpose, the 1% manual tally must be conducted according to the full extent of the  
2 provisions of law.

3 10. There are two major classes of ballots processed by the 1% manual tally:

4 POLLS BALLOTS: Ballots cast in at a physical polling place to vote (generally) on  
5 election day. Included in this set are all ballots that are not vote-by-mail ballots, including  
6 provisional ballots. Provisional ballots are used at the polling place if there is some  
7 question about the validity of the ballot, so these can be reviewed later.

8 VOTE-BY-MAIL (VBM) BALLOTS: Deposited in the mail and postmarked no later  
9 than election day. These days, VBM ballots may comprise as much as or more than 60%  
10 of the total votes cast.

11 11. It is important to note the wording of the 1% manual tally provisions carefully, as they  
12 were crafted with an intent to be succinct and meaningful. The first set of ballots, the  
13 polls ballots, are all ballots that are not VBM ballots. This then would include all  
14 provisional ballots, for example, because it is the intent of this provision, we argue, to  
15 include absolutely all ballots in the universe of ballots to be checked by the 1% manual  
16 tally.

17 12. The other set are all VBM ballots "cast." Not "received", not "processed" and not  
18 "tallied." The wording is "cast." The word "cast" is not explicitly defined by the elections  
19 code, but the common meaning is that a ballot is "cast" when it leaves control of the voter  
20 and is turned over to the elections official. In the precinct, the ballot is cast when it is  
21 inserted into the ballot box. VBM ballots are cast when they are submitted to the U.S.  
22 Postal Service or hand-delivered to a precinct or the Registrar of Voters.

23 13. 1% Manual Tally Options: There are two options for conducting the 1% manual tally, as  
24 specified in California Election Code Sec. 15360. The first is to tally 1% of all the  
25 precincts, poll ballots and VBM ballots. The second is to conduct the tally in two parts,  
26 one being the polls ballots, and one being the VBM ballots which are grouped into  
27 batches rather than being grouped by precinct.

28 14. Plaintiffs are informed and believe that Defendants, and each of them, conduct their 1%

1 manual tally according to the second option. VBM ballots are grouped into "batches" with  
2 mixed precincts and mixed ballot types, with approximately 400 ballots per batch.

3 15. Scope of Manual Tally: Attached as "Exhibit C", and incorporated by this reference as if  
4 set forth in full, is the public notice of the manual tally procedure. It states that "Pursuant  
5 to State Law, a manual tally of at least 1% of the precincts and 1% of the mail ballots,  
6 selected at random, is required as part of the post-Election Day canvass of the election."  
7 There are no other categories or exclusions. The public notice does not say that "the  
8 manual tally includes 1% of the precinct ballots minus the provisional ballots and minus  
9 those omitted in the QC process." The public notice does not say that it is "1% of the mail  
10 ballots already processed, excluding about 285,000 ballots not yet processed."

11 16. California Elections Code §15101 allows Defendants to begin processing vote-by-mail  
12 ballots 10 business days prior to the election. The initial tally provided to the public and  
13 media at that time are VBM ballots that were received early in the process or voters who  
14 cast their ballot at the Registrar's office. After the polls close, polls ballots are  
15 transported from each polling place to the Registrar of Voters' office and they are scanned  
16 over the course of the night. The first step in this process is receiving the boxes of ballots  
17 from the precinct.

18 17. QC Inspection Removal of Ballots: When received by the Registrar of Voters, The boxes  
19 are opened and the ballots are given an initial inspection. At this point, we learned that a  
20 number of ballots may be removed from the precinct box. In our review of the process in  
21 2010, about 5% of the ballots were removed at this point for any of a number of reasons,  
22 such as additional marking, mutilation, etc. These ballots may be "remade" prior to  
23 scanning by a remaking group. These ballots are currently not included in the 1% manual  
24 tally process. We don't know how many ballots were removed in this fashion in this  
25 election because the ROV does not provide this information. We can, however, determine  
26 this number by reviewing the number of signatures on sign-in rosters and then subtracting  
27 the number actually scanned.

28 18. Unofficial Results: Sometime early in the morning, the set of early VBM ballots has been

1 scanned and all the normal (not provisional and not removed due to QC inspection)  
2 ballots from the precincts have been scanned. This forms the initial unofficial results of  
3 the election. At the end of election night, the website of the Registrar said that 285,000  
4 ballots were yet to be counted. Attached as Exhibit B, and hereby incorporated by this  
5 reference as if set forth in full herein, is a snapshot of the header of that page the day after  
6 the election.

7 19. The unofficial results are determined by tabulation software called "GEMS" which runs  
8 on the "Central tabulator" computer. There is a possibility that a compromised worker or  
9 external hacker who has gained access to this computer will have modified the results,  
10 perhaps by shifting 10K or 20K votes from one candidate to another, by distributing  
11 changes to perhaps 1,000 different precincts and shifting 10 to 20 votes in each one. As  
12 long as the hacker does not modify a precinct included in the 1% manual tally, it will be  
13 invisible to that audit procedure. So it is absolutely essential that the precincts and VBM  
14 batches which are selected for the 1% manual tally are unknown until the results are fixed  
15 as unofficial results. The element of surprise is essential to make sure that the hacker is  
16 not able to simply avoid the precincts and batches which are involved in the manual tally.  
17 Furthermore, it is essential that the unofficial results are fixed and provided to the public  
18 prior the random selection process. Otherwise, the hacker may be able to reverse any  
19 changes to those specific precincts to cover their tracks and again, the 1% manual tally  
20 would again be worthless. These constraints on the effective implementation of a manual  
21 tally procedure are well known and implied by the concept of random selection, and a  
22 manual tally procedure.

23 20. Random selection of Precincts and Batches: The day after the election, the random  
24 selection is performed. The selection is done only on the set of ballots already processed  
25 (not including the 285,000 ballots mentioned as "still to be counted.")

26 21. Plaintiffs asked the Registrar of Voters to delay this selection process so as to include all  
27 the VBM ballots but that demand was refused. (Attached as "Exhibit F," and hereby  
28 incorporated by this reference as if set forth in full herein, is an email correspondence



1 with Defendant Michael Vu.)

2 22. Members of the public are requested to assist in the random selection of precincts and  
3 VBM batches. There are 1522 precinct in San Diego County. The selection of precincts is  
4 performed using three sets of ping pong balls marked 0-9 and one set of two ping pong  
5 balls marked with 0 and 1. A member of the public selects one precinct out of 1522 by  
6 choosing one ball from each of the ones, tens, hundreds, and thousands containers. A total  
7 of 16 precincts are chosen in this manner. Attached as Exhibit D, and hereby incorporated  
8 by this reference as if set forth in full, is a photocopy of the lists of precincts chosen.

9 23. In addition to these 16 precincts, precincts and races are chosen by the registrar to ensure  
10 that all races in the election are checked by a manual tally procedure. These additional  
11 precincts and races are added later.

12 24. Immediately after choosing the 16 precincts, a member of the public selects 1% of the  
13 VBM batches already scanned. This is done in a similar way to the selection of precincts,  
14 using ping pong balls. Attached as Exhibit E, and hereby incorporated by this reference as  
15 if set forth in full herein, is the published list of batches selected.

16 25. There were about 730 mail in "batches" included in the 1% manual tally selection  
17 process. If there are 400 ballots in each batch, this represents about  $730 \times 400 = 292,000$   
18 ballots included in the VBM tally process.

19 26. Plaintiffs attended the public selection process and video recorded the process. Plaintiffs  
20 mentioned the discrepancy between the 730 batches and the fact that the 285,000  
21 unprocessed VBM and provisional ballots was not included in the selection process. They  
22 said the 1% manual tally only includes the VBM ballots already scanned.

23 27. At the public meeting of the selection of the random precincts on June 9, 2016,  
24 Registrar's staff provided "Policy Number [ES-08]" which provides the policy which  
25 "establishes procedures for conducting the One Percent Manual Tally." A true and  
26 correct copy of this policy memorandum is attached as "Exhibit G" and hereby  
27 incorporated by this reference as if set forth in full herein

28 28. Policy ES-08 provides procedures for selecting 1% of the precincts for the 1% manual

1 tally, but does not describe any procedures for VBM ballots and the batches which are to  
2 be manually tallied. Without a written procedure, there is no way for the public to  
3 understand nor comment on the procedures for auditing the election for the VBM ballots,  
4 which today comprise a majority of the ballots cast.

5 29. Policy ES-08 describes in provision 6.1.11 and 6.2.16, that "The supervisor may request  
6 Technical Services rerun the ballots to confirm the manual tally." This step is completed  
7 if there is a variance between the hand-tallied result and the computer result from the  
8 central tabulator. If a rescan of the sampled ballots suddenly matches the manually tally  
9 result, that would not "confirm the manual tally" but would imply that a compromised  
10 worker or hacker has modified the election in the central Tabulator, and it has been  
11 caught by the manual tally procedure. In such a case, steps should exist in the procedure  
12 to declare that the election has been hacked and to require a complete rescan of all ballots.

13 30. In this election, there was also an unusually high number of provisional ballots primarily  
14 due to No Party Preference (NPP) voters who have the option of choosing a partisan  
15 ballot only for the presidential race for most parties (but not the Republican Party). These  
16 "crossover" ballots included the presidential race for that party, all the nonpartisan races,  
17 but not the strictly partisan races such as central committee members. In this election, the  
18 vast majority of cases were NPP voters choosing the DEM ballot (Democratic Party  
19 crossover ballot) so they could vote for Sen. Bernie Sanders.

20 31. These ballots could have then be placed with the other ballots for the precinct but poll  
21 workers were trained to treat these as "provisional" ballots. The normal and most  
22 prevalent use of provisional ballots is to deal with a voter who normally is a VBM voter  
23 and who does not have his VBM ballot to turn in. If the voter accidentally also voted by  
24 mail, the VBM ballot would already have been received. The VBM ballot will be used  
25 and the poll ballot will not. Otherwise, the voter could unintentionally vote twice.

26 32. There were so many people requesting NPP/DEM ballots that many precincts ran out. In  
27 those cases, they opted to use a regular DEM ballot but omit the central committee race.  
28 These would also be treated as provisional ballots. Based upon information and belief,

1 there were about 74,000 provisional ballots received.

2 I.

3 **FIRST CAUSE OF ACTION**

4 **(DECLARATORY RELIEF)**

5 **(All Defendants)**

6 33. Plaintiffs repeat, reallege and incorporate herein Paragraphs 1 through 32 inclusive, as  
7 though set forth in full herein.

8 34. An actual controversy has arisen and now exists between Plaintiffs and Defendants, and  
9 each of them. Plaintiffs alleges that the election code states clearly and succinctly that the  
10 1% manual tally be performed in two parts, one part including 1% of all ballots cast at  
11 precincts (including provisional ballots and ballots removed in the QC inspection) and  
12 one part including 1% of all VBM ballots cast (including the VBM ballots already  
13 processed and those still in the queue to be processed).

14 35. Instead, the Defendants, and each of them, included only about 290,000 VBM ballots in  
15 the set of batches that could be selected for the 1% manual tally process, choosing 8  
16 batches, with each batch being about 400 ballots. Defendants, and each of them, did not  
17 include provisional ballots in the set of ballots included in the 1% manual tally.  
18 Defendants, and each of them, did not include the ballots removed during QC inspection  
19 in the set audited by the manual tally. Defendants, and each of them, did not include the  
20 VBM ballots still in the queue waiting to be processed in the 1% manual tally. Thus, with  
21 290,000 VBM ballots available for audit in the 1% manual tally, but with about the same  
22 number waiting to be processed, instead of a 1% manual tally, this should be called the  
23 "half-of-one-percent manual tally."

24 36. The Registrar is in violation of the clear intent of the law.

25 WHEREFORE, Plaintiffs pray that:

26 1. A declaration of the rights, duties and obligations of the parties concerning their  
27 dispute; Specifically, A larger sample of VBM ballots must be included in the manual tally  
28 process. The percentage must be at least 1% of the VBM ballots known to have been cast. In this

1 case, it roughly double the number of batches originally selected are required. Essentially all  
 2 VBM ballots and provisional ballots should be included in the set of ballots included in the  
 3 manual tally process. By including these ballots in the process, more of the process is checked,  
 4 including the ballots removed in the QC inspection. The definition for "batch" according to the  
 5 election code "means a set of ballots tabulated by the voting system devices, for which the voting  
 6 system can produce a report of the votes cast." Plaintiffs asked for data files corresponding to the  
 7 "report of the votes cast" for batches in the VBM manual tally and the Registrar refused to  
 8 provide these files. In addition, our oversight protocol is substantially enhanced if we get all  
 9 the data files corresponding to the batches PRIOR TO the 1% manual tally selection process.

10 2. Court will require that the registrar document their procedures regarding VBM ballots  
 11 in the 1% manual tally. Court will require that the procedures will include the steps to take if a  
 12 variance exists that cannot be explained. If a rescan of those ballots results which results in a  
 13 correction of the variance shall result in the declaration that the election is tainted, and a  
 14 complete rescan of the ballots must be performed, followed by another 1% manual tally  
 15 procedure on newly chosen precincts.

16 3. Court will require that after procedures are documented, that unofficial results will be  
 17 published by being provided to the public, and the 1% manual tally will be restarted for all VBM  
 18 and provisional ballots, including a new random selection after the results have been fixed.

19 4 For attorney fees and costs of suit, pursuant to California Code of Civil Procedure  
 20 Section 1021.5;

21 5. For such other and further relief as may be appropriate and just.

## 22 II.

### 23 SECOND CAUSE OF ACTION

#### 24 (INJUNCTIVE RELIEF)

25 (All Defendants)

26 37. Plaintiffs repeat, reallege and incorporate herein Paragraphs 1 through 36 inclusive, as  
 27 though set forth in full herein.

28 38. Plaintiffs alleges that Defendants, and each of them, may not certify the election of June

1 7, 2016, without complying with the clear intent of California Elections Code Section  
2 15360.

3 39. Despite Plaintiffs' attempt to gain, Defendants, and each of them, to comply with the  
4 California Elections Code Section 15360, such compliance is not forthcoming.

5 40. As a result Defendants would certify the election results without compliance of Election  
6 Code Section 15360, and this would result in irreparable harm to Plaintiffs and all the  
7 voters in the County of San Diego.

8 WHEREFORE, Plaintiffs, and each of them, pray that:

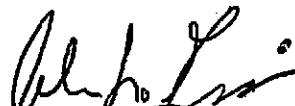
9 1. A temporary, preliminary and permanent injunction for the certification of the June 7  
10 election until Defendants, and each of them comply with the California Elections Code and  
11 specifically California Elections Code Section 15360.

12 2. Pending a hearing or trial on this matter, an order that Defendants, and each of them,  
13 be stayed from certifying the election;

14 3. For attorney fees and costs of suit, pursuant to California Code of Civil Procedure  
15 Section 1021.5;

16 4. For such other and further relief as may be appropriate and just.

17  
18 Dated: June 22, 2016

  
By: Alan L. Geraci, Esq of CARE Law  
Group PC, Attorneys for Plaintiffs Citizens  
Oversight Inc. and Raymond Lutz

## ELECTIONS CODE

### SECTION 15360

15360. (a) During the official canvass of every election in which a voting system is used, the official conducting the election shall conduct a public manual tally of the ballots tabulated by those devices, including vote by mail ballots, using either of the following methods:

(1) (A) A public manual tally of the ballots, including vote by mail ballots, cast in 1 percent of the precincts chosen at random by the elections official. If 1 percent of the precincts is less than one whole precinct, the tally shall be conducted in one precinct chosen at random by the elections official.

(B) (i) In addition to the 1 percent manual tally, the elections official shall, for each race not included in the initial group of precincts, count one additional precinct. The manual tally shall apply only to the race not previously counted.

(ii) Additional precincts for the manual tally may be selected at the discretion of the elections official.

(2) A two-part public manual tally, which includes both of the following:

(A) A public manual tally of the ballots, not including vote by mail ballots, cast in 1 percent of the precincts chosen at random by the elections official and conducted pursuant to paragraph (1).

(B) (i) A public manual tally of not less than 1 percent of the vote by mail ballots cast in the election. Batches of vote by mail ballots shall be chosen at random by the elections official.

(ii) For the purposes of this section, a "batch" means a set of ballots tabulated by the voting system devices, for which the voting system can produce a report of the votes cast.

(iii) (I) In addition to the 1 percent manual tally of the vote by mail ballots, the elections official shall, for each race not included in the initial 1 percent manual tally of vote by mail ballots, count one additional batch of vote by mail ballots. The manual tally shall apply only to the race not previously counted.

(II) Additional batches for the manual tally may be selected at the discretion of the elections official.

(b) If vote by mail ballots are cast on a direct recording electronic voting system at the office of an elections official or at a satellite location of the office of an elections official pursuant to Section 3018, the official conducting the election shall either include those ballots in the manual tally conducted pursuant to paragraph (1) or (2) of subdivision (a) or conduct a public manual tally of those ballots cast on no fewer than 1 percent of all the direct recording electronic voting machines used in that election chosen at random by the elections official.

(c) The elections official shall use either a random number generator or other method specified in regulations that shall be adopted by the Secretary of State to randomly choose the initial precincts, batches of vote by mail ballots, or direct recording electronic voting machines subject to the public manual tally.

(d) The manual tally shall be a public process, with the official conducting the election providing at least a five-day public notice of the time and place of the manual tally and of the time and place of the selection of the precincts, batches, or direct recording electronic voting machines subject to the public manual tally prior to conducting the selection and tally.

(e) The official conducting the election shall include a report on the results of the 1 percent manual tally in the certification of the official canvass of the vote. This report shall identify any discrepancies between the machine count and the manual tally and a description of how each of these discrepancies was resolved. In resolving any discrepancy involving a vote recorded by means of a punchcard voting system or by electronic or electromechanical vote tabulating devices, the voter verified paper audit trail shall govern if there is a discrepancy between it and the electronic record.

---

## EXHIBIT B

Heading on results page of San Diego ROV website the morning after the election

**PRIMARY  
ELECTION**

**COUNTY OF SAN DIEGO  
PRESIDENTIAL PRIMARY ELECTION  
Tuesday, June 7, 2016**

**THESE RESULTS ARE UNOFFICIAL**  
Last updated on: 06-08-16 at 03:21:51  
There are APPROXIMATELY 285000 Mail / Provisional ballots still to be counted.

**PUBLIC NOTICE OF MANUAL TALLY FROM SAN DIEGO ROV WEBSITE**



**Public Notice**

**Pursuant to State Law, a manual tally of at least 1% of the precincts and 1% of the mail ballots, selected at random, is required as part of the post-Election Day canvass of the election.**

**This process, as are all components of the official canvass of results, is open to public observation. State Law provides 30 days to complete the canvass prior to certification of the election results.**

**The random selections of 1% of precincts and mail ballots to be manually tallied for the June 7<sup>th</sup>, 2016 Presidential Primary Election will commence on:**

**Wednesday, June 8<sup>th</sup>, at 3:00 p.m.**

**The actual manual tally of the votes cast on these selected precinct and mail ballots will commence on:**

**Monday, June 13<sup>th</sup>, at 9:00 a.m.**

**The manual tally will be conducted each day, until completed, during normal business hours, Monday through Friday, from 8:00 a.m. to 4:30 p.m. If needed, manual tally hours could be extended to evenings until 8:00 pm and/or weekends.**

**If interested in observing this process, please contact Diane Elsheikh at 858-505-7225.**



# EXHIBIT D

ROV list of precincts

**Precincts**

Sequence	Contribution
32	180193
183	217300
168	240600
418	270510
687	376768
637	403500
670	404130
586	405400
857	420570
877	472200
601	473800
111	474000
132	475000
113	475000
121	475000

# EXHIBIT E

List of VBM Batches selected

**1% Random Draw: June 8, 2016**

	Mail Batch
1	10
2	13
3	15
4	17
5	19
6	21
7	23
8	25

## EXHIBIT F

Email correspondence with Michael Vu. He refuses to follow the law to include 1% of all VBM ballots cast.

Subject: RE: 1% Manual Tally  
 From: "Vu, Michael" <Michael.Vu@sdcounty.ca.gov>  
 Date: 06/13/2016 7:43 PM  
 To: Ray Lutz <raylutz@citizensoversight.org>  
 CC: "electionintegrity@citizensoversight.org" <electionintegrity@citizensoversight.org>

Good Evening, Mr. Lutz.

To accommodate those that were in attendance for the initial pull, I will make arrangements to have a separate mail ballot batch pulled on Thursday, June 16 at 9 am.

With regard to your second concern, we respectfully decline your request.

Kind Regards,

Michael

---

MICHAEL VU | REGISTRAR OF VOTERS | 858-565-7281 | SDVOTE.COM

-----Original Message-----

From: Ray Lutz [<mailto:raylutz@citizensoversight.org>]  
 Sent: Friday, June 10, 2016 2:34 PM  
 To: Vu, Michael  
 Cc: [electionintegrity@citizensoversight.org](mailto:electionintegrity@citizensoversight.org)  
 Subject: Re: 1% Manual Tally

Michael:

Thank you for the update.

Two Problems:

1) I don't think you gave sufficient public notice of that public draw, as we were unable to attend. Please provide the required public notice (72 hours I think) and redraw that additional batch (plus the issue below).

2) While we are talking about the 1% manual tally, we would like to complain that the 1% of the batches pulled in the random draw DOES NOT represent 1% of the mail ballot batches expected in the election, but is 1% of the number of batches completed so far. A larger number of batches is required to meet the 1% random draw legal requirement, because it is 1% of the total, not 1% of the number processed so far. We understand that about 290,000 VBM ballots were included in the initial batches and an additional 285,000 ballots were left to be counted according to your website the morning of the draw. Thus, with 400 ballots in each batch, the total number of batches is  $290K+285K=575K$  ballots / 400 ballots per batch = 1438 batches; 1% (rounding up) would be 15 batches. You chose only 7 batches. Please make this correction and chose an additional 8 batches.

--Ray Lutz

On 06/10/2016 8:39 AM, Vu, Michael wrote:  
 The batch that doesn't exist is 719.

Sent from my iPhone

On Jun 10, 2016, at 8:24 AM, Vu, Michael <[Michael.Vu@sdcountry.ca.gov](mailto:Michael.Vu@sdcountry.ca.gov)> wrote:

Ray:

It has come to my attention that when we pulled the random draw of one of our mail ballot batches, the batch number doesn't exist. As a result, we will need to randomly select another batch. It is my understanding that you were present when the draw was made and wanted to apprise you of this issue.

To resolve this situation, we will be publicly drawing another mail ballot batch to get to the needed 1% at 10 am this morning.

Should you have any questions, please let me know.

mv

Sent from my iPhone

-----  
Ray Lutz  
Citizens' Oversight Projects (COPs)  
<http://www.citizensoversight.org>  
619-820-5321

0064

**Exhibit G**



COUNTY OF SAN DIEGO  
REGISTRAR OF VOTERS  
DEPARTMENT POLICY MANUAL

0065

Subject:

One Percent Manual Tally

Policy Number

[ES-08]

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November 9, 2012

Effective Date

Registrar of Voters

**PURPOSE:**

This policy establishes procedures for conducting the One Percent Manual Tally.

**BACKGROUND:**

California Election Code 336.5. "One Percent manual tally" definition.

"One Percent manual tally" is the public process of manually tallying votes in 1 percent of the precincts, selected at random by the elections official, and in one precinct for each race not included in the randomly selected precincts. This procedure is conducted during the official canvass to verify the accuracy of the automated count.

**STANDARDS/GUIDELINES:**

California Elections Code (E.C.) 2012 Chapter 4, Article 5. One Percent Manual Tally. Section 15360. Manual tally when using a voting system.

**PROCEDURES:**

**1. SELECT DATES FOR THE RANDOM DRAW OF PRECINCTS AND THE ONE PERCENT MANUAL TALLY (MANUAL TALLY); NOTIFY THE PUBLIC**

1.1 Schedule the random draw of precincts (random draw) to begin two days after the election, or on a date the Registrar of Voters (Registrar) specifies.

1.2 The random draw is performed by a section or public observer(s) outside of the Election Services Division.

1.3 Schedule the manual tally to begin the Tuesday immediately following the election, or on a date the Registrar specifies.

1.4 Notify the Precinct Services and Technical Services Division Chiefs of the date for the random draw.

1.5 Place public notice of the random draw and manual tally at the front counter and on our website no later than five days prior to the date and time of the random draw and manual tally as per E.C. 15360.



COUNTY OF SAN DIEGO  
REGISTRAR OF VOTERS  
DEPARTMENT POLICY MANUAL

Subject: One Percent Manual Tally	Policy Number [ES-08]	Page 2 of 5
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- 1.6 Select personnel to participate in the manual tally and submit a Personnel Requisition to Administration Division.
- 1.7 Reserve room to conduct the random draw and manual tally.
- 1.8 Request warehouse support to set up the room for the manual tally.

## 2. RANDOM DRAW OF PRECINCTS

- 2.1 Calculate one percent of the precincts (e.g. one percent of 1,634 precincts would be 17 precincts) needed for the manual tally.
- 2.2 Check with Administrative Secretary for Observers scheduled to attend the random draw.
- 2.3 The ROV will use a method similar to that used to randomly draw lottery numbers. The procedure uses three sets of balls numbered from 0 to 9 and one set of balls numbered 0 and 1. Each set represents one of the four digits (ones, tens, hundreds, and thousands) in the sequence number assigned to election precincts. Listed below is a detailed description of the random selection procedure.
  - 2.3.1 The balls will be displayed for public inspection in four clear containers. Observers will receive a list of the sequence numbers and their correlating precinct numbers.
  - 2.3.2 The Registrar or his designee will shake the containers and the section or observer(s) outside of the Election Services Division will make the random selection.
  - 2.3.3 The ones container will be shaken. A ball will be drawn randomly from the container. This will be the low order or ones digit.
  - 2.3.4 The tens container will be shaken. A ball will be drawn randomly from the container. This will be the second or tens digit.
  - 2.3.5 The hundreds container will be shaken. A ball will be drawn randomly from the container. This will be the third or hundreds digit.
  - 2.3.6 Depending on the results of the third digit drawing, one of two actions will be taken<sup>1</sup>.
    - 2.3.6.1 A ball will be drawn randomly from the thousands container only if drawing a "1" would generate a valid sequence number. This number will be either 0 or 1 completing the random selection.
    - 2.3.6.2 No ball needs to be drawn from the thousands container if drawing a "1" from the thousands container would cause the resulting four-digit number to exceed the total number of precincts.

<sup>1</sup> The thousands digit is only relevant if it, combined with the first three digits, will constitute a number that does not exceed the total number of precincts.



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2.4 The Chief Deputy of Election Services and an Election Services supervisor will coordinate to read off the sequence numbers and correlate them to the precinct numbers.

**3. RECORD PRECINCTS SELECTED BY RANDOM DRAW**

3.1 Report the precincts randomly selected to the Registrar, Assistant Registrar and Chief Deputies of Election Services and Technical Services.

**4. SELECT ADDITIONAL PRECINCTS FOR THE MANUAL TALLY TO COVER ALL REMAINING CONTESTS ON BALLOT**

4.1 Request from Technical Services the list of contests, ballot types and corresponding precincts not covered in the initial random draw.

4.2 Use this report to help identify the ballot types and precincts that will cover most of the remaining contests not selected in the random draw.

4.3 Highlight the spreadsheet from TS with a different colors and symbols to represent add-on precincts.

4.4 Ask a member from the public to randomly select a precinct within the ballot types needed to cover all remaining contests in the election.

4.5 Record the precinct, ballot type and contest(s) covered by each additional precinct selected.

4.6 In the instance where only one precinct covers a contest, then that precinct will be selected as the add-on precinct. In some cases, this may be a declared precinct.

**5. FINAL PREPARATION FOR MANUAL TALLY**

5.1 Notify Technical Services of all the precincts selected for the manual tally in order for them to assemble:

5.1.1 summary reports from election night

5.1.2 precinct and mail ballots from the selected precincts

5.2 Create a consolidation log to record manual tally and summary report comparisons and variances.

5.3 Create a one percent manual tally sheet for workers to tally votes. Create two sets: one for precinct ballots (white paper), one for mail ballots (color paper).

5.4 Create memo to report results of one percent manual tally to the Registrar.

5.5 Create observer sign-in sheet and post observer rules.

5.6 Create log to record precinct sign-out, sign-in, date, time and team.

5.7 Gather supplies:

5.7.1 sign in sheet (election workers)

5.7.2 rubber fingers

5.7.3 tacky

5.7.4 scratch pads



COUNTY OF SAN DIEGO  
REGISTRAR OF VOTERS  
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One Percent Manual Tally

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4.2 Use this report to help identify the ballot types and precincts that will cover most of the remaining contests not selected in the random draw.

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5.6 Create log to record precinct sign-out, sign-in, date, time and team.

5.7 Gather supplies:

5.7.1 sign in sheet (election workers)

5.7.2 rubber fingers

5.7.3 tacky

5.7.4 scratch pads





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- 5.7.5 pencils
- 5.7.6 post its
- 5.7.7 rulers  
(comes with the ballots)
- 5.7.9 stapler and staples
- 5.7.9.1 calculators
- 5.7.9.2 tally sheets

5.8 Inventory summary reports and ballots from TS.

5.9 Confirm manual tally schedule with election workers and assign teams.

## 6. CONDUCT MANUAL TALLY

The method used for tallying the ballots depends on the number of contests. If a ballot has several contests it is more efficient to read, call and tally each contest. If there are few contests it is more efficient to sort by contest, count, tally, repeat. (sort and stack method). In some cases a team may start with the Read and Tally method and switch to the Sort and Stack method if only a few contests need to be re-tallied.

Both methods begin by welcoming the boards, give an explanation of why the 1% is conducted, inform teams of work hours, lunch and break schedules, and explain tally instructions to tally boards and observers.

### 6.1 Read and Tally

6.1.1 Assign tally boards; each precinct will have one 3 person team. One will call out vote and 2 will tally.

6.1.2 Each team will receive two copies of tally sheets and all paper ballots for a particular precinct. Be sure to verify that the precinct number is the same on all ballots.

6.1.3 Record deck number onto the worksheet

6.1.4 Remove ballots from box, putting box onto the floor

6.1.5 Reader calls out votes and board records votes.

6.1.6 If there is a variance, the board will pull those ballots aside in case they need to be reviewed by a supervisor.

6.1.8 Combine all results and bring to supervisor for comparison against the summary report.

6.1.9 If the tally results do not match the election night report, the supervisor will ask the team to re-tally their results – crossing their previous slashes. If a third tally is needed, a vertical mark will be made through the cross slashes. The board will re-tally no more than two times.

6.1.9.1 Descriptions of Variances could be as follows:

If less than 30% of the bubble is filled it is recorded as blank

If there is an invalid mark and the ink is light, the bubble is read as blank



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If there is an invalid mark and the ink is dark, the bubble is recorded as a vote cast

- 6.1.10 The supervisor may opt to assign to another team.
- 6.1.11 The supervisor may request Technical Services to rerun the ballots to confirm the manual tally.
- 6.1.12 When finished tallying, the board signs the tally sheet and leaves with the supervisor.
- 6.1.13 Supervisor records results, variances, and causes (if known) on consolidation log.

## 6.2 Sort and Stack

- 6.2.1 Assign tally boards; each precinct will have one 2 - 4 person team.
- 6.2.2 Each team will receive one tally sheet and all paper ballots for a particular precinct. When the Sort and Stack method is used as a final tally in a precinct that started as a Read and Tally this form may be used as a worksheet with the information then transferred to the Read and Tally tally sheet. Be sure to verify that the precinct number is the same on all ballots.
- 6.2.3 Record precinct number onto the worksheet
- 6.2.4 Remove ballots from box, putting box onto the floor
- 6.2.5 Divide ballots amongst team members
- 6.2.6 Sort into one stack for each category i.e.: yes, no, blank, ambiguous, over vote
- 6.2.7 Count, and on a post it write the number counted and place on top of stack
- 6.2.8 Second team member repeats this process and places a check by the number on the post it if they come up with the same result
- 6.2.9 If the total in the stack does not match – recount
- 6.2.10 Once all stacks are counted and team count matches, record results on the worksheet in the "1st count" column
- 6.2.11 Call over a supervisor and read off the total ballots manually tallied (and to notify of any ambiguous markings) to be compared to the system count of total ballots
- 6.2.12 If the totals do not match, count the ballots a second time and record on the worksheet in the "2nd count" column.
- 6.2.13 Call over a supervisor and read off the total ballots manually tallied to be compared to the system count of total ballots
- 6.2.14 If the total ballots still do not match the system recorded count, then recount one final time and record results in "3<sup>rd</sup> count" column.
- 6.2.15 The supervisor may opt to assign to another team.
- 6.2.16 The supervisor may request Technical Services rerun the ballots to confirm the manual tally.



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6.2.17 Sign and date your worksheet

6.2.18 Supervisor will collect the ballots, box, worksheet, and record results onto the tracking log kept at the lead table.

6.2.19 Team will then repeat the process with the next deck assigned.

**7. WHEN THE ONE PERCENT MANUAL TALLY IS COMPLETE**

7.1 Return ballots to Technical Services for storage.

7.2 File tally sheets with other election materials.

7.3 Compile a memo of the results for the Registrar of Voters.

**REVIEW DATE:**

This policy will be reviewed for continuance by February 28, 2011.

VERIFICATION

0072

STATE OF CALIFORNIA, COUNTY OF San Diego  
I have read the foregoing First Amended Complaint

and know its contents.

CHECK APPLICABLE PARAGRAPHS

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am  an Officer  a partner  \_\_\_\_\_ of Citizens Oversight Inc. a Delaware non-profit corporation a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for \_\_\_\_\_ a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on 6/22/2016 at San Marcos California.

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

Raymond Lutz

Type or Print Name

PROOF OF SERVICE  
FOR THE STATE OF CALIFORNIA

STATE OF CALIFORNIA, COUNTY OF San Diego.

I am employed in the county of San Diego, State of California.

I am over the age of 18 and not a party to the within action; my business address is: 317 W. San Marcos Blvd, San Marcos, CA 92078

on 6/22/2016 I served the foregoing document described as First Amended Complaint

in this manner:

by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list  
 by placing  the original  a true copy thereof enclosed in sealed envelopes addressed as follows:  
Timothy Barry, Chief Deputy, Office of the San Diego County Counsel, 1600 Pacific Highway, Room 155, San Diego, CA 92101

Timothy.Barry@sdcouny.ca.gov

BY MAIL and electronic mail

I deposited such envelope in the mail at \_\_\_\_\_, California.  
The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at 317 W. San Marcos Blvd, San Marcos California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in aforesaid.

Executed on 6/22/2016 at San Marcos California.

\*(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on \_\_\_\_\_ at \_\_\_\_\_, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.  
 (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Alan J. Garcia

Type or Print Name

Signature

\*BY MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR CUBE.  
\*FOR PERSONAL SERVICE, SIGNATURE MUST BE THAT OF MESSENGER!

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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF San Diego
I have read the foregoing First Amended Complaint

0073

and know its contents.

CHECK APPLICABLE PARAGRAPHS

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am an Officer a partner a of Citizens Oversight Inc., a Delaware non-profit corporation

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on 6/22/2016 at San Marcos, California.

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

Raymond Lutz

Type or Print Name

Signature

PROOF OF SERVICE

1013a (3) CCP Revised 5/1/89

STATE OF CALIFORNIA, COUNTY OF San Diego

I am employed in the county of San Diego, State of California.

I am over the age of 18 and not a party to the within action; my business address is: 817 W. San Marcos Blvd, San Marcos, CA 92078

On, 6/22/2016 I served the foregoing document described as First Amended Complaint

on in this action

by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:

by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows: Timothy Barry, Chief Deputy, Office of the San Diego County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101

Timothy.Barry@sdcounty.ca.gov

BY MAIL and electronic mail

I deposited such envelope in the mail at, California.

The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at 817 W. San Marcos Blvd, San Marcos, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on 6/22/2016, at San Marcos, California.

(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on, at, California.

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

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Alan L. Geraci

Type or Print Name

Signature

(BY MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG)

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Superior Court of California,  
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Clerk of the Superior Court  
By Patricia Xavier, Deputy Clerk

1 Alan L. Geraci, Esq. SBN108324  
2 **CARE Law Group PC**  
3 817 W. San Marcos Blvd.  
4 San Marcos, CA 92078  
5 619-231-3131 telephone  
6 760-650-3484 facsimile  
7 alan@carelaw.net email

8 Attorney for Plaintiffs, Citizens Oversight Inc. and Raymond Lutz

9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO—CENTRAL DIVISION**

11 CITIZENS OVERSIGHT INC., a Delaware )  
12 non-profit corporation; RAYMOND LUTZ, )  
13 an individual, )

14 Plaintiffs,

15 vs.

16 MICHAEL VU, San Diego Registrar of )  
17 Voters; HELEN N. ROBBINS-MEYER, )  
18 San Diego County Chief Administrative )  
19 Officer; COUNTY OF SAN DIEGO, a )  
20 public entity; DOES 1-10, )

21 Defendants.

CASE NO: 37-2016-00020273-CL-MC-CTL

**PLAINTIFFS' NOTICE OF MOTION AND  
MOTION FOR PRELIMINARY  
INJUNCTION**

**Hon. Joel R. Wohlfeil, Judge**

Complaint filed: June 16, 2016  
No Trial Date Set

Hearing Date: July 6, 2016  
Hearing Time: 1:30 p.m.  
Dept: C-73

**Hon. Joel R. Wohlfeil**

22 **TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS O RECORD:**

23 Plaintiffs, Citizens Oversight Inc. and Raymond Lutz, hereby bring this Motion for  
24 Preliminary Injunction pursuant to California Code of Civil Procedure Section 527. A hearing  
25 will be held at the Superior Court of California, Hall of Justice, 330 W. Broadway, Department  
26 73, Hon Joel R. Wohlfeil presiding. The Motion will be based on this Notice, Plaintiff's  
27 Memorandum of Points and Authorities in Support thereof, Declaration of Raymond Lutz, and  
28 lodged exhibits pursuant to Notice of Lodgement.

Dated: June 24, 2016

  
Alan L. Geraci, Esq. of CARE Law Group PC,  
Attorneys for Plaintiffs Citizens Oversight and  
Raymond Lutz

**ELECTRONICALLY FILED**  
Superior Court of California,  
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8 Attorney for Plaintiffs, Citizens Oversight Inc. and Raymond Lutz

9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO-CENTRAL DIVISION**

11 CITIZENS OVERSIGHT INC., a Delaware ) 12 non-profit corporation; RAYMOND LUTZ, ) 13 an individual, ) 14 Plaintiffs, ) 15 vs. ) 16 MICHAEL VU, San Diego Registrar of ) 17 Voters; HELEN N. ROBBINS-MEYER, ) 18 San Diego County Chief Administrative ) 19 Officer; COUNTY OF SAN DIEGO, a ) 20 public entity; DOES 1-10, ) 21 Defendants. )	CASE NO: 37-2016-00020273-CL-MC-CTL <b>PLAINTIFFS' MEMORANDUM OF  POINTS AND AUTHORITIES IN  SUPPORT OF INJUNCTIVE RELIEF</b>  <b>Hon. Joel R. Wohlfeil, Judge</b>  Complaint filed: June 16, 2016 No Trial Date Set  Hearing Date: July 6, 2016 Hearing Time: 1:30 p.m. Dept: C-73  <b>Hon. Joel R. Wohlfeil</b>
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22 Plaintiffs submit the following Memorandum of Points and Authorities in Support of  
23 Injunctive Relief.

24 **I.**  
25 **INTRODUCTION**

26 Our democracy depends upon full, free and fair elections. Irregularities in American  
27 elections have been reported nationwide. Presidential elections have been put into doubt based  
28 on suspicious or nefarious conduct. Some of the evidence is circumstantial, some is statistical,  
and some is pretty direct and clear-cut. Taken together, a pattern that emerges strongly suggesting  
that ever since electronic voting machines were introduced in the United States, reports of a

1 string of suspect election results that frankly are not consistent with a free and fair election  
2 outcome. Trust is different than 'verifiable'. Trust, frankly, has no place in elections. We need to  
3 be able to verify outcomes period.

4 Unlike some other states, California has put some checks into place to help verifying  
5 election results. In this case, the San Diego County Registrar of Voters wishes to cut corners,  
6 avoid strict compliance with this check on election results and to cheat San Diego's voters from  
7 the legislated verification process required. An injunction is required to stop the Registrar from  
8 certifying the recent election until that office has completed the final count of every vote and  
9 verified results as required by law.

## 10 II.

### 11 FACTUAL BACKGROUND

12 A Primary Election occurred on June 7, 2016, in all of California. After the precincts all  
13 report a result from their polling place, the real work of verification and certification of results  
14 begins. The San Diego County Registrar of Voters (Defendant Michael Vu, hereafter  
15 "Registrar") has refused to comply with California Elections Code Section 15360.<sup>1</sup> Section  
16 15360 requires the Registrar to canvass the election process by conducting a manual tally of the  
17 ballots tabulated by voting devices and ballots received from voters by mail. The purpose of  
18 Section 15360 is to provide an objective and statistical basis to test the integrity of the voting  
19 method and process. Discrepancies can isolate defective tabulation, employee error, or nefarious  
20 conduct such as "hacking." The modern age of voting with electronic and automated systems has  
21 been heavily scrutinized in recent election cycles. Only strict compliance with the legislative  
22 intent of Section 15360 can assure the electorate of fair elections. [Declaration of Raymond Lutz  
23 in Support of Plaintiffs' Motion for Injunction [hereinafter "Lutz Decl", para 5]

24 The Registrar is not complying with Section 15360 because he is not including a manual  
25 tally of *all ballots cast* in 1% of the precincts chosen at random. Specifically, the Registrar's  
26 selections do not include provisional ballots added to the tally nor does the Registrar include all  
27 vote-by-mail (VBM) ballots. [Lutz Decl, para 6]

28 \_\_\_\_\_  
<sup>1</sup> All references to Code without full title are to the California Election Code.



1 Plaintiffs have repeatedly made written requests that the Registrar produce a written  
2 procedural manual describing how their office will conduct a 1% manual tally to fully comply  
3 with Section 15360(a) including provisional ballots and vote-by-mail ballots. [Lutz Decl, para 7  
4 and NOL #8, Exhibit 1]<sup>2</sup>

5 After publishing Public Notice and the filing and service of this lawsuit, the Registrar has  
6 reported that he intends to comply with Section 15360(a)(1) instead of Section 15360(a)(2) but  
7 has not changed his approach of failing to include all votes cast, including provisional ballots and  
8 vote-by-mail ballots. Public Notice (FAC "Exhibit C", NOL#3) was posted on the Registrar's  
9 website [Lutz Decl, para 8]

10 There are two major classes of ballots processed by the 1% manual tally. First, ballots  
11 cast at physical precinct polling places ("PPP", usually on election day). Included in this set are  
12 all ballots that are not vote-by-mail ballots, but including provisional ballots. Provisional ballots  
13 are intended to be used at the polling place if there is some question about the validity of the  
14 ballot or the eligibility of the voter, so that these can be reviewed later. Second, ballots deposited  
15 in the mail and postmarked no later than election day (vote-by-mail or "VBM"). In contemporary  
16 elections, VBM ballots may comprise as much as or more than 60% of the total votes cast.  
17 [Lutz Decl, para 9]

18 Section 15360 of the Elections Code refers to "ballots cast." The word "cast" is not  
19 explicitly defined by the elections code, but the common meaning is that a ballot is "cast" when it  
20 leaves control of the voter and is turned over to the elections official for tally. In the precinct  
21 polling place, a ballot is "cast" when it is inserted into the ballot box. VBM ballots are "cast"  
22 when they are submitted to the U.S. Postal Service or hand-delivered to a precinct polling place  
23 or to the Registrar of Voters. [Lutz Decl, para 10] After the June 7<sup>th</sup> Primary Election, there  
24 were approximately 285,000 VBM and provisional ballots still to be counted. [Lutz Decl, para  
25 12 and "Exhibit B" FAC, NOL#2]

26 California Elections Code §15101 allows Defendants to begin processing VBM ballots 10  
27 business days prior to the election. The initial tally provided to the public and media on Election  
28

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<sup>2</sup> Reference to "FAC" is First Amended Complaint and "NOL" is Notice of Lodgement.

1 Day after the polls have closed consist of VBM ballots that were received early in the process or  
2 ballots cast by voters at the Registrar's office. [Lutz Decl, para 13]

3 After the polls close, precinct polling place (PPP) ballots are to be transported from each  
4 polling place directly to the Registrar of Voters' office and they are scanned over the course of  
5 the night. [Lutz Decl, para 14] The unofficial results are determined by tabulation software  
6 called "GEMS" which runs on the "central tabulator" computer. [Lutz Decl, para 17]

7 By not complying with Section 15360, the Registrar, a "hacker" could alter the results  
8 and the alterations would be invisible to this audit procedure. [Lutz Decl, para 18] So it is  
9 absolutely essential that the precincts and VBM batches which are selected for the 1% manual  
10 tally remain secret until the results are fixed as unofficial results. The element of surprise is  
11 essential to make sure that the "hacker" is not able to simply avoid altering votes in the precincts  
12 and VBM batches which are involved in the manual tally, thus rendering the 1% manual tally  
13 worthless. [Lutz Decl, para 18] Furthermore, it is essential that the unofficial results are fixed  
14 and provided to the public prior the random selection process. Otherwise, the "hacker" may be  
15 able to reverse any alterations made to those specific precincts to cover their tracks, in which  
16 case, the 1% manual tally would again be worthless. [Lutz Decl, para 19] These constraints are  
17 designed to ensure the effective implementation of a manual tally procedure under the law. They  
18 are well understood and implied by the concept of random selection necessary to effectuate an  
19 accurate, meaningful manual tally procedure. [Lutz Decl, para 20]

20 Moreover, in this election, there was also an unusually high number of provisional ballots  
21 primarily due to No Party Preference (NPP) voters who have the option of choosing a partisan  
22 ballot only for the presidential race for most parties (but not the Republican Party). These  
23 "crossover" ballots included the presidential race for that party, all the nonpartisan races, but not  
24 the strictly partisan races such as central committee members. In this election, the vast majority  
25 of cases were NPP voters choosing the DEM ballot (Democratic Party crossover ballot) so they  
26 could vote for Sen. Bernie Sanders. [Lutz Decl, para 31] Using provisional ballots in this way  
27 unnecessarily elevated the count of provisional ballots to process. [Lutz Decl, para 33]

28 //

## III.

## LEGAL DISCUSSION

Section 527 of the California Code of Civil Procedure governs when a preliminary injunction may be ordered. That section provides in relevant part,

(a) A preliminary injunction may be granted at any time before judgment upon a verified complaint, or upon affidavits if the complaint in the one case, or the affidavits in the other, show satisfactorily that sufficient grounds exist therefor. No preliminary injunction shall be granted without notice to the opposing party.

Section 526 of the Code of Civil Procedure sets forth those cases in which an injunction may or may not be granted. As provided by that section:

(a) An injunction may be granted in the following cases:

(1) When it appears by the complaint that the plaintiff is entitled to the relief demanded, and that the relief, or any part thereof, consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually.

(2) When it appears by the complaint of affidavits that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury, to a party to the action.

(3) When it appears, during the litigation, that a party to the action is doing or threatens or is about to do, or is procuring or suffering to be done, some act in violation of the rights of another party to the action

1           respecting the subject of the action, and  
2           intending to render the judgment ineffectual.

3           (4) When pecuniary compensation would not afford  
4           adequate relief.

5           It is the general rule in this state that while the right to injunctive relief under proper  
6           circumstances is well- established, the issuance of an injunction is largely within the discretion of  
7           the court and depends on the consideration of the equities between the parties. *Phillips v. Isham*  
8           (1952) 111 Cal.App.2d 537. In exercising its discretion, the court should recognize that the  
9           general purpose of a preliminary injunction is for preservation of the *status quo* until a final  
10          determination on the merits can be made. *Continental Baking Co. v. Katz* (1968) 68 Cal.2d 512,  
11          528. In determining whether or not a preliminary injunction should issue, the court should  
12          consider two inter related questions. First, are the plaintiffs likely to suffer greater injury from a  
13          denial of the injunction than the defendant is likely to suffer from the granting of the injunction.  
14          Secondly, is there a reasonable probability plaintiffs will prevail on the merits. *Robbins v.*  
15          *Superior Court* (1985) 38 Cal.3d 199, 206. Ultimately, the court should determine which party is  
16          more likely to be injured by the exercise of the court's discretion and that discretion must be  
17          exercised in favor of that party. *Continental Baking Company v. Katz, supra.* 68 Cal.2d at 528.

18           **A. Plaintiffs Are Likely to Prevail in this Action.**

19           In analyzing this matter in terms of this motion, at issue here is the Defendants legal basis  
20          to proceed with certification of the recent election without full compliance of the 1 percent  
21          manual tally required under California Elections Code Section 15360.

22           **1. Excluding even some vote-by-mail ballots is illegal.**

23           Section 15360(a) requires that "[d]uring the official canvass of every election in which a  
24          voting system is used, the official conducting the election shall conduct a public manual tally of  
25          the ballots tabulated by those devices, including vote-by-mail ballots." This process is called the  
26          one percent manual tally. The purpose of the one percent manual tally is "to verify the accuracy  
27          of the automated count." Section 336.5.

28           Section 15360 clearly states that "not less than 1 percent of the vote-by-mail ballots cast"

1 must be included in the one percent manual tally. Section 15360(a)(2)(B)(i). This quantity must  
2 be calculated based on the total number of vote by mail ballots cast, not the number of vote by  
3 mail ballots counted to date. One percent of the total number of ballots counted is less than one  
4 percent of the total number of ballots cast. Thus, counting a mere one percent of the total  
5 number of ballots counted to date is in direct violation of the requirement that "not less than one  
6 percent of the vote-by-mail ballots cast in the election" be counted. Section 15360(a)(2)(B)(i)  
7 (emphasis added).

8 The stated purpose of the one percent tally, "to verify the accuracy of the automated  
9 count," supports this conclusion. Section 336.5. The legislative history of Section 15360  
10 supports this conclusion. "In 2006, Elections Code § 15360 was amended to require that *all*  
11 *vote-by-mail ballots be included* in the 1% manual tally by precinct. This requirement resulted in  
12 over 540 additional staff hours to complete the manual tally process and approximately \$12,000  
13 in additional costs for each election . . . ." 06/03/11- Senate Elections And Constitutional  
14 Amendments, 2011 Cal Stat. Ch. 52 (emphasis added). Clearly, *all vote-by-mail ballots* have to  
15 be counted. The onerous nature of this requirement led the legislators to add the option to  
16 account for vote-by-mail ballots separately, in batches, to ensure, that all of them could be  
17 counted efficiently. *Id.*

18 Precedent supports this conclusion. "Section 15360 appears on its face to be concerned  
19 solely with assuring the accuracy of the vote, not with limiting unnecessary vote tallying. Indeed,  
20 the explicit intent of section 15360, as expressed in a companion statute, is "to verify the  
21 accuracy of the automated count." *County of San Diego v. Bowen*, 166 Cal. App. 4th 501,  
22 511-12 (Cal. Ct. App. 2008).

## 23 **2. Arbitrary and capricious exclusion of provisional ballots is illegal.**

24 In addition to the vote by mail ballots, accuracy must be determined for "the ballots, not  
25 including vote-by- mail ballots, cast in 1 percent of the precincts." Section 15360(a)(2)(A).

26 The legislative history indicates clearly that this must include provisional ballots.

27 "This bill, and SB 1235 (Bowen), stems from anecdotal reports

28 that some counties routinely exclude absent voter and provisional

1 ballots from the one percent manual tally process and may not be  
2 choosing the relevant precincts in a truly "random" manner. Over  
3 40 percent of the votes cast in the last statewide election were from  
4 absent voter ballots, a number that has steadily risen in recent  
5 years. The use of provisional ballots has also increased in recent  
6 years. Excluding these ballots from the manual tally severely  
7 lessens the value and the accuracy of this post-election audit."

8 8/29/06 Senate Floor Analysis, 2006 Cal Stat. Ch. 894.

9 Given the unprecedented surge in provisional ballots in the present election cycle, this  
10 reasoning rings truer than ever. The intent of Section 15360 is to determine the accuracy of all  
11 ballots cast, including provisionals.

12 **B. Plaintiffs Will Suffer Irreparable Injury Unless The Registrar Is Enjoined.**

13 In terms of this motion, the Court should note that if the Defendants are not enjoined  
14 from certifying the recent election until they fully comply with Section 15360, citizens like  
15 Plaintiffs will be deprived of the full verification required by law.

16 In addition, because this matter necessarily involves the right of the parties to verification  
17 of the election process, which is generally considered unique, the general rule that compensatory  
18 damages are inadequate in such a case should apply and justifies a finding of irreparable injury if  
19 the requested relief is not granted. See *Wilkison v. Wiederkehr* (2002) 101 Cal.App.4th 822, 830;

20 **3. Changing the 1 percent manual tally method from Section 15360(a)(2)**  
21 **to Section 15360(a)(1) aggravates the illegal conduct and requires a**  
22 **new public notice be issued.**

23 Originally, the Registrar was employing Section 15360(a)(2) as his method of choice for  
24 performing the 1 percent manual tally. Section 15360(a)(2) states:

25 (2) A two-part public manual tally, which includes  
26 both of the following:

27 (A) A public manual tally of the ballots, not  
28 including vote by mail ballots, cast in 1 percent of the

1 precincts chosen at random by the elections official and  
2 conducted pursuant to paragraph (1).

3 (B) (i) A public manual tally of not less than 1  
4 percent of the vote by mail ballots cast in the election. Batches  
5 of vote by mail ballots shall be chosen at random by the  
6 elections official. (ii) For the purposes of this section, a  
7 "batch" means a set of ballots tabulated by the voting system  
8 devices, for which the voting system can produce a report of the  
9 votes cast.

10 Upon changing his method after public notice and being served this lawsuit, the Registrar  
11 now intends to employ Section 15360(a)(1). Section 15360(a)(1) states:

12 (1) (A) A public manual tally of the ballots, including  
13 vote by mail ballots, cast in 1 percent of the precincts chosen  
14 at random by the elections official. If 1 percent of the  
15 precincts is less than one whole precinct, the tally shall be  
16 conducted in one precinct chosen at random by the elections  
17 official. (B) (i) In addition to the 1 percent manual tally, the  
18 elections official shall, for each race not included in the  
19 initial group of precincts, count one additional precinct. The  
20 manual tally shall apply only to the race not previously counted.  
21 (ii) Additional precincts for the manual tally may be selected at  
22 the discretion of the elections official.

23 By making this change and playing this game of "whack a mole", the Registrar  
24 compounds the issue of his failure to include all votes cast as afore stated, he now voids the  
25 Public Notice [FAC, "Exhibit C"] and must restart the process.

## 26 V.

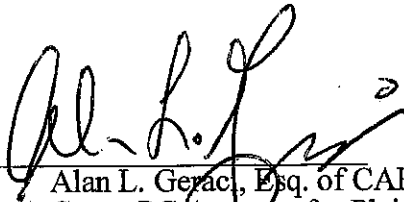
## 27 CONCLUSION

28 In sum, omitting all of the provisional ballots and half of the vote by mail ballots from the

1 1 percent manual tally is in direct violation of California Elections Code Section 15360. The  
2 Court must enjoin the Registrar from certifying the June 7<sup>th</sup> Primary Election until he has  
3 complied fully with Section 15360.

4 Respectfully Submitted,

5 Dated: June 24, 2016

  
6 Alan L. Geraci, Esq. of CARE Law  
7 Group PC Attorney for Plaintiffs  
8 Citizens Oversight Inc. and Raymond Lutz

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5 619-231-3131 telephone  
6 760-650-3484 facsimile  
7 [alan@carelaw.net](mailto:alan@carelaw.net) email

8 Attorney for Plaintiffs, Citizens Oversight Inc. and Raymond Lutz

9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO-CENTRAL DIVISION**

11 CITIZENS OVERSIGHT INC., a Delaware )  
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15 vs. )

16 MICHAEL VU, San Diego Registrar of )  
17 Voters; HELEN N. ROBBINS-MEYER, )  
18 San Diego County Chief Administrative )  
19 Officer; COUNTY OF SAN DIEGO, a )  
20 public entity; DOES 1-10, )

21 Defendants. )

CASE NO: 37-2016-00020273-CL-MC-CTL

**DECLARATION OF RAYMOND LUTZ IN  
SUPPORT OF INJUNCTIVE RELIEF**

**Hon. Joel R. Wohlfeil, Judge**

Complaint filed: June 16, 2016  
No Trial Date Set

Hearing Date: July 6, 2016  
Hearing Time: 1:30 p.m.  
Dept: C-73

**Hon. Joel R. Wohlfeil**

22 I, Raymond Lutz declare as follows:

- 23 1. I am a resident and registered voter in the County of San Diego unincorporated area. I am  
24 over the age of 18.
- 25 2. I have personal knowledge of the matters stated herein unless stated under information  
26 and belief for which I believe said matter to be true and correct.
- 27 3. I am also the National Coordinator of CitizensOversight.org,. I have conducted extensive  
28 reports and reviews of the election processes used in San Diego County since 2008,  
including a top-to-bottom report regarding the 2010 election.
4. I am the chief officer of Citizens Oversight Inc. ("Citizens Oversight") located and doing

1 business in the County of San Diego. Citizens Oversight conducts election oversight  
2 nationwide as a watchdog of election processes to preserve the integrity of elections in  
3 our democracy.

4 5. The San Diego County Registrar of Voters has refused to comply with California  
5 Elections Code Section 15360. Section 15360 requires the Registrar to canvass the  
6 election process by conducting a manual tally of the ballots tabulated by voting devices  
7 and ballots received from voters by mail. The purpose of Section 15360 is to provide an  
8 objective and statistical basis to test the integrity of the voting method and process.  
9 Discrepancies can isolate defective tabulation, employee error, or nefarious conduct such  
10 as "hacking." The modern age of voting with electronic and automated systems has been  
11 heavily scrutinized in recent election cycles. Only strict compliance with the legislative  
12 intent of Section 15360 can assure the electorate of fair elections.

13 6. The Registrar has unilaterally decided that his office does not need to fully comply with  
14 Section 15360 by not including a manual tally of all ballots cast in 1% of the precincts  
15 chosen at random. Specifically, the Registrar takes does not include provisional ballots  
16 added to the tally nor does the Registrar include all Vote-by-Mail (VBM) ballots.

17 7. I have repeatedly made written requests that the Registrar produce a written procedural  
18 manual describing how their office will conduct a 1% manual tally to fully comply with  
19 Section 15360(a) including vote-by-mail ballots and provisional ballots. Nothing was  
20 ever provided to me.

21 8. Recently, after the filing and service of this complaint, I have been informed that the  
22 Registrar intends to comply with Section 15360(a)(1) instead of Section 15360(a)(2).  
23 Public Notice (FAC "Exhibit C") was posted on the Registrar's website and the process  
24 noticed for the manual tally was for Section 15360(a)(1). Attached as Exhibit 2 to this  
25 declaration is a true and correct email of which I received copy between my counsel and  
26 counsel for the Registrar stating the Registrar's change of intent.

27 9. There are two major classes of ballots processed by the 1% manual tally:

28 9.1 PRECINCT POLLING PLACE (PPP)BALLOTS: Ballots cast at physical precinct

1 polling places (usually on election day). Included in this set are all ballots that are  
2 not vote-by-mail ballots, but including provisional ballots. Provisional ballots are  
3 intended to be used at the polling place if there is some question about the validity  
4 of the ballot or the eligibility of the voter, so that these can be reviewed later.

5 9.2 VOTE-BY-MAIL (VBM) BALLOTS: Ballots deposited in the mail and  
6 postmarked no later than election day. In contemporary elections, VBM ballots  
7 may comprise as much as or more than 60% of the total votes cast.

8 10. Section 15360 of the Elections Code refers to "ballots cast." The word "cast" is not  
9 explicitly defined by the elections code, but the common meaning is that a ballot is "cast"  
10 when it leaves control of the voter and is turned over to the elections official for tally. In  
11 the precinct polling place, a ballot is "cast" when it is inserted into the ballot box. VBM  
12 ballots are "cast" when they are submitted to the U.S. Postal Service or hand-delivered to  
13 a precinct polling place or to the Registrar of Voters.

14 11. After the filing of this Complaint and after Public Notice of the manual tally pursuant to  
15 Section 15360(d), the Registrar informed my counsel that the Registrar will conduct their  
16 1% manual tally according to the Section 15360(a)(1). According to Section 15360(a)(1),  
17 the Registrar shall conduct "... (a) public manual tally of the ballots, including vote by  
18 mail ballots, cast in 1 percent of the precincts chosen at random by the elections official. .  
19 .. In addition to the 1 percent manual tally, the elections official shall, for each race not  
20 included in the initial group of precincts, count one additional precinct. The manual tally  
21 shall apply only to the race not previously counted."

22 12. Public Notice ("Exhibit C" to FAC) is the public notice of the manual tally procedure. It  
23 states that "Pursuant to State Law, a manual tally of at least 1% of the precincts and 1% of  
24 the mail ballots, selected at random, is required as part of the post-Election Day canvass  
25 of the election." There are no other categories or exclusions. The public notice does not  
26 say for instance that the manual tally includes 1% of the precinct ballots minus the  
27 provisional ballots and minus those omitted in the Quality Control (QC) process. The  
28 public notice does not say, nor does the statute intend that the manual tally includes 1% of

1 the mail ballots already processed, minus “. . . APPROXIMATELY 285,000  
2 Mail/Provisional ballots still to be counted.” (See “Exhibit B” to the FAC)

3 13. California Elections Code §15101 allows Defendants to begin processing VBM ballots 10  
4 business days prior to the election. The initial tally provided to the public and media on  
5 Election Day after the polls have closed consist of VBM ballots that were received early  
6 in the process or ballots cast by voters at the Registrar's office.

7 14. After the polls close, precinct polling place (PPP) ballots are to be transported from each  
8 polling place directly to the Registrar of Voters' office and they are scanned over the  
9 course of the night.

10 15. The first step in this process is for the Registrar to receive the boxes of ballots from the  
11 precinct polling places. When received by the Registrar, the ballot boxes are opened and  
12 the ballots are given an initial inspection. A number of ballots may be removed from the  
13 precinct ballot box for reasons such as extraneous marking, mutilation, etc. (as part of the  
14 QC inspection process). These ballots may be "remade" prior to scanning by a "remaking  
15 group." These ballots are currently not being included by the Registrar in the 1% manual  
16 tally process. We do not know how many ballots were removed in this fashion in this  
17 election because the Registrar refuses to provide this information. We can, however,  
18 approximate this number with greater difficulty by first noting the number of signatures  
19 on polling place sign-in rosters and then subtracting the number actually scanned.

20 16. Once the set of early VBM ballots has been scanned, and all the PPP ballots from the  
21 precinct polling places have been scanned (excluding provisional ballots and those  
22 removed due to QC inspection), an initial, unofficial result of the election is announced to  
23 the public. When this announcement was made at the end of election night on June 7, the  
24 Registrar announced: “There are APPROXIMATELY 285,000 Mail/Provisional ballots  
25 still to be counted.” (“Exhibit B” to FAC)

26 17. The unofficial results are determined by tabulation software called "GEMS" which runs  
27 on the "central tabulator" computer. There is a possibility that a compromised worker or  
28 external “hacker” who has gained access to this computer will have modified the results.

1 For example, a malicious person might be able to shift 10,000 or 20,000 votes from one  
2 candidate to another, and attempt to conceal this gross alteration by distributing smaller  
3 alterations to perhaps 1,000 different precincts by shifting 10 to 20 votes in each precinct.

4 18. Because the Registrar is refusing to fully comply with Section 15360, so long as the  
5 "hacker" does not modify a precinct included in the 1% manual tally, the alterations  
6 would be invisible to this audit procedure. So it is absolutely essential that the precincts  
7 and VBM batches which are selected for the 1% manual tally remain secret until the  
8 results are fixed as unofficial results. The element of surprise is essential to make sure  
9 that the "hacker" is not able to simply avoid altering votes in the precincts and VBM  
10 batches which are involved in the manual tally, thus rendering the 1% manual tally  
11 worthless.

12 19. Furthermore, it is essential that the unofficial results are fixed and provided to the public  
13 prior the random selection process. Otherwise, the "hacker" may be able to reverse any  
14 alterations made to those specific precincts to cover their tracks, in which case, the 1%  
15 manual tally would again be worthless.

16 20. These constraints are designed to ensure the effective implementation of a manual tally  
17 procedure under the law. They are well understood and implied by the concept of random  
18 selection necessary to effectuate an accurate, meaningful manual tally procedure.

19 21. The day after the election, on June 8th, the random selection was performed. The  
20 selection of precincts and VBM batches to be manually tallied was drawn from only the  
21 set of ballots already processed (not including the aforementioned 285,000 VBM and  
22 provisional ballots designated as "still to be counted.")

23 22. Plaintiffs asked the Registrar to delay this selection process so as to include all the VBM  
24 ballots but that demand was refused. (Attached as "Exhibit F" to FAC) There is no  
25 indication that sufficient public notice of the random draw was provided, as required by  
26 section 1.5 of the Procedures set forth in Policy ES-08. ("Exhibit G to FAC)

27 23. Members of the public are requested to assist in the random selection of precincts and  
28 VBM batches. There are 1522 precinct in San Diego County. The selection of precincts is

1 performed using three sets of ping pong balls marked 0-9 and one set of two ping pong  
2 balls marked with 0 and 1. A member of the public selects one precinct out of 1522 by  
3 choosing one ball from each of the ones, tens, hundreds, and thousands containers. A total  
4 of 16 precincts (1 percent) are chosen in this manner. (Attached as Exhibit D to FAC).

5 24. In addition to these 16 precincts, precincts and races are chosen by the Registrar to ensure  
6 that all races in the election are checked by a manual tally procedure. These additional  
7 precincts and races are added later.

8 25. Immediately after choosing the 16 precincts, a member of the public selects 1% of the  
9 VBM batches already scanned. This is done in a similar way to the selection of precincts,  
10 using ping pong balls. Attached as Exhibit E to FAC.

11 26. There were about 730 mail in "batches" included in the 1% manual tally selection  
12 process. If there are 400 ballots in each batch, this represents about  $730 \times 400 = 292,000$   
13 ballots included in the VBM tally process.

14 27. I attended the public selection process and video recorded the process. Plaintiffs  
15 mentioned the discrepancy between the 730 batches and the fact that the 285,000  
16 unprocessed VBM and provisional ballots was not being included in the selection  
17 process. The Registrar's staff responded that the 1% manual tally would include only the  
18 VBM ballots already scanned, but none of the "unprocessed" 285,000 VBM and  
19 provisional ballots. Lodged as "Exhibit 3" with this declaration is a true and correct copy  
20 of the recording of this selection process.

21 28. At the public meeting for the selection of the random precincts on June 9, 2016, the  
22 Registrar's staff provided "Policy Number [ES-08]" which provides the policy which  
23 "establishes procedures for conducting the One Percent Manual Tally." "Exhibit G" to  
24 FAC.

25 29. Policy ES-08 provides procedures for selecting 1% of the precincts for the 1% manual  
26 tally, but does not describe any procedures for VBM ballots and the batches which are to  
27 be manually tallied nor does it describe that the Registrar will omit provisional ballots  
28 which are cast. Without a written procedure, there is no way for the public to understand

1 nor comment on the procedures for auditing the election for the VBM ballots, which  
2 today comprise a majority of the ballots cast.

3 30. Policy ES-08 describes in provision 6.1.11 and 6.2.16, that "The supervisor may request  
4 Technical Services rerun the ballots to confirm the manual tally." This step is completed  
5 if there is a variance between the hand-tallied result and the computer result from the  
6 central tabulator. If a re-scan of the sampled ballots suddenly matches the manually tally  
7 result, that would not "confirm the manual tally" but would imply that a compromised  
8 worker or "hacker" has modified the election in the central Tabulator, and it has been  
9 caught by the manual tally procedure. In such a case, steps should exist in the procedure  
10 to declare that the election has been hacked and to require a complete re-scan of all  
11 ballots.

12 31. In this election, there was also an unusually high number of provisional ballots primarily  
13 due to No Party Preference (NPP) voters who have the option of choosing a partisan  
14 ballot only for the presidential race for most parties (but not the Republican Party). These  
15 "crossover" ballots included the presidential race for that party, all the nonpartisan races,  
16 but not the strictly partisan races such as central committee members. In this election, the  
17 vast majority of cases were NPP voters choosing the DEM ballot (Democratic Party  
18 crossover ballot) so they could vote for Sen. Bernie Sanders.

19 32. These ballots could have then be placed with the other ballots for the precinct but poll  
20 workers were trained to treat these as "provisional" ballots thereby elevating the count of  
21 provisional ballots to process. The normal and most prevalent use of provisional ballots  
22 is to deal with a voter who ordinarily is a VBM voter who reports to the polling place, but  
23 does not have his VBM ballot to turn in. If the voter had also voted by mail, the VBM  
24 ballot would already have been received, in which event, the VBM ballot would be used  
25 and the polling place ballot would not. Otherwise, the voter would (presumably)  
26 inadvertently vote twice.

27 33. In the June 7 primary election, there were so many voters requesting NPP/DEM ballots  
28 that many precincts ran out of those ballots. In those cases, the poll workers opted to use a

1 inadvertently vote twice.

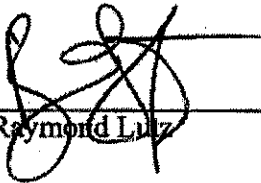
2 33. In the June 7 primary election, there were so many voters requesting NPP/DEM ballots  
3 that many precincts ran out of those ballots. In those cases, the poll workers opted to use  
4 a regular DEM ballot but to omit the central committee race. These ballots were also  
5 treated as provisional ballots. Based upon information and belief, there were about  
6 74,000 provisional ballots received in the June 7 primary election.

7 34. The integrity of the election process depends on the Registrar's full compliance with the  
8 1 percent manual tally requirement of Section 15360. Cutting corners or shortening the  
9 process because it is inconvenient renders the process ineffectual at best and false at  
10 worse.

11 Pursuant to the laws of the State of California, I declare that the foregoing is true and  
12 correct.

13  
14 Dated:

6/24/2016

  
Raymond Lutz



1 Alan L. Geraci, Esq. SBN108324  
2 CARE Law Group PC  
3 817 W. San Marcos Blvd.  
4 San Marcos, CA 92078  
5 619-231-3131 telephone  
6 760-650-3484 facsimile  
7 alan@carelaw.net email

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**06/29/2016** at 12:25:00 PM  
Clerk of the Superior Court  
By Candace Schaeffer, Deputy Clerk

5 Attorney for Plaintiffs, Citizens Oversight Inc. and Raymond Lutz

8 **SUPERIOR COURT OF CALIFORNIA**  
9 **COUNTY OF SAN DIEGO—CENTRAL DIVISION**

11	CITIZENS OVERSIGHT INC., a Delaware )	CASE NO: 37-2016-00020273-CL-MC-CTL
12	non-profit corporation; RAYMOND LUTZ, )	
13	an individual, )	<b>PLAINTIFFS' EX PARTE NOTICE OF</b>
14	Plaintiffs, )	<b>MOTION AND MOTION FOR</b>
15	vs. )	<b>TEMPORARY RESTRAINING ORDER</b>
16	MICHAEL VU, San Diego Registrar of )	<b>Hon. Joel R. Wohlfeil, Judge</b>
17	Voters; HELEN N. ROBBINS-MEYER, )	Complaint filed: June 16, 2016
18	San Diego County Chief Administrative )	No Trial Date Set
19	Officer; COUNTY OF SAN DIEGO, a )	Ex Parte Hearing: June 30, 2016
	public entity; DOES 1-10, )	Ex Parte Time: 8:30 a.m.
	Defendants. )	Injunction Hearing Date: July 6, 2016
		Hearing Time: 1:30 p.m.
		Dept: C-73

20 TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

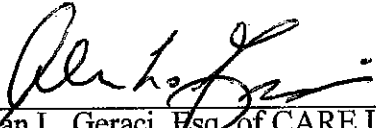
21 Plaintiffs, Citizens Oversight Inc. and Raymond Lutz, hereby bring this Motion *ex parte*  
22 for Temporary Restraining Order California Code of Civil Procedure Section 527. A hearing on  
23 the issuance of a temporary restraining order will be held at the Superior Court of California,  
24 Hall of Justice, 330 W. Broadway, Department 73, Hon Joel R. Wohlfeil presiding, at the  
25 aforesaid *ex parte* date and time.

26 On June 23, 2016, the parties appeared before the Hon. Timothy Taylor, for the purpose  
27 of a hearing schedule for the preliminary injunction. On that date, new counsel substituted for  
28 Plaintiff and a *verified* First Amended Complaint was filed, among other things, adding Citizens  
Oversight Inc. as an additional Plaintiff. A hearing schedule was ordered with hearing date of

1 July 6, 2016, added. This was done so that a full hearing on Plaintiffs' request for injunction on  
2 the full effect of Elections Code Section 15360 could be heard. It was implied that the Registrar  
3 of Voters could not or would not certify the election before that hearing thereby making  
4 Plaintiffs' challenge moot. Plaintiffs now believe that they need the further protection of a  
5 temporary restraining order to guard against an early certification. There is great benefit to the  
6 public interest for the Court to adjudicate this matter by ruling on Plaintiffs Motion for Injunctive  
7 Relief on July 6, 2016, for this present dispute and for guidance to the Registrar in future  
8 elections. There is no detriment or harm to the Registrar who is in the process of counting  
9 provisional and vote-by-mail ballots from the primary election on June 7, 2016, and will likely  
10 not complete that task before the scheduled hearing on July 6, 2016.

11 Plaintiffs incorporate by reference their Motion for Injunctive Relief and Declaration of  
12 Raymond Lutz in support thereof, along with Notice of Lodgment and Exhibits filed in  
13 conjunction with the Motion for Injunctive Relief. Notice of this matter was provided both orally  
14 on Monday, June 27, 2016, by Alan L. Geraci, Esq. to Chief Deputy County Counsel Timothy  
15 Barry and by email communication again on Wednesday, June 29, 2016, at 8:36 a.m.

16  
17 Dated: June 29, 2016

  
18 Alan L. Geraci, Esq. of CARE Law Group PC,  
19 Attorneys for Plaintiffs Citizens Oversight and  
20 Raymond Lutz  
21  
22  
23  
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27  
28

**ELECTRONICALLY FILED**

Superior Court of California,  
County of San Diego

**06/29/2016** at 12:25:00 PM

Clerk of the Superior Court  
By Candace Schaeffer, Deputy Clerk

1 Alan L. Geraci, Esq. SBN108324  
2 **CARE Law Group PC**  
3 817 W. San Marcos Blvd.  
4 San Marcos, CA 92078  
5 619-231-3131 telephone  
6 760-650-3484 facsimile  
7 alan@carelaw.net email

8 Attorney for Plaintiffs, Citizens Oversight Inc. and Raymond Lutz

9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO-CENTRAL DIVISION**

11 CITIZENS OVERSIGHT INC., a Delaware )  
12 non-profit corporation; RAYMOND LUTZ, )  
13 an individual, )

14 Plaintiffs, )

15 vs. )

16 MICHAEL VU, San Diego Registrar of )  
17 Voters; HELEN N. ROBBINS-MEYER, )  
18 San Diego County Chief Administrative )  
19 Officer; COUNTY OF SAN DIEGO, a )  
20 public entity; DOES 1-10, )

21 Defendants. )

CASE NO: 37-2016-00020273-CL-MC-CTL

**DECLARATION OF ALAN L. GERACI IN  
SUPPORT OF PLAINTIFFS' EX PARTE  
NOTICE OF MOTION AND MOTION FOR  
TEMPORARY RESTRAINING ORDER**

**Hon. Joel R. Wohlfeil, Judge**

Complaint filed: June 16, 2016  
No Trial Date Set

Ex Parte Hearing: June 30, 2016  
Ex Parte Time: 8:30 a.m.  
Injunction Hearing Date: July 6, 2016  
Hearing Time: 1:30 p.m.  
Dept: C-73

22 I, Alan L. Geraci, declare:

- 23 1. I am an attorney licensed to practice law in all courts of the State of California. I am  
24 attorney of record for Plaintiffs, Citizens Oversight Inc. and Raymond Lutz having filed a  
25 substitution of attorney for Mr. Lutz on June 23, 2016, and filed a First Amended  
26 Complaint for Mr. Lutz and adding Plaintiff Citizens Oversight Inc. also on June 23,  
27 2016.  
28 2. On June 23, 2016, the parties appeared before the Hon. Timothy Taylor, for the purpose  
of a hearing schedule for the preliminary injunction. A hearing schedule was ordered  
with hearing date of July 6, 2016, added. This was done so that a full hearing on

1 Plaintiffs' request for injunction on the full effect of Elections Code Section 15360 could  
2 be heard. It was implied that the Registrar of Voters could not or would not certify the  
3 election before that hearing thereby making Plaintiffs' challenge moot. Plaintiffs now  
4 believe that they need the further protection of a temporary restraining order to guard  
5 against an early certification. There is great benefit to the public interest for the Court to  
6 adjudicate this matter by ruling on Plaintiffs Motion for Injunctive Relief on July 6, 2016,  
7 for this present dispute and for guidance to the Registrar in future elections. There is no  
8 detriment or harm to the Registrar who is in the process of counting provisional and vote-  
9 by-mail ballots from the primary election on June 7, 2016, and will likely not complete  
10 that task before the scheduled hearing on July 6, 2016.

11 3. Contrary to the minute order filed by Hon. Timothy Taylor, there was no motion for  
12 temporary restraining order nor was any such motion heard on June 23, 2016. I am  
13 informed and believe that when Plaintiff Raymond Lutz called the calendar clerk as a *pro*  
14 *per* Plaintiff scheduling the *ex parte* matter, the calendar clerk scheduled the matter for  
15 temporary restraining order and order to show cause hearing. That was not the intention  
16 of the hearing nor what was noticed to the County Counsel's office for the hearing of  
17 June 23, 2016.

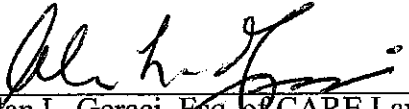
18 4. Plaintiffs incorporate by reference their Motion for Injunctive Relief and Declaration of  
19 Raymond Lutz in support thereof, along with Notice of Lodgment and Exhibits filed in  
20 conjunction with the Motion for Injunctive Relief.

21 5. On June 23, 2016, I also asked Timothy Barry, Chief Deputy County Counsel by email if  
22 the Registrar would stipulate to not certifying the election results of June 7, 2016, until  
23 after a full hearing can be had on the subject of Plaintiffs First Amended Complaint and  
24 Motion for Injunctive Relief now scheduled for July 6, 2016. On June 24, 2016, Mr.  
25 Barry replied by email as follows: "Also, in response to your question yesterday, while I  
26 think it would be very unlikely that the Registrar would be in a position to certify the  
27 election before the hearing, I cannot stipulate that he would not." As such, Plaintiffs  
28 require an additional order to guard against any possible method to make their claims and

1 Motion for Injunctive Relief moot. A true and correct copy of the aforementioned email  
2 is attached as Exhibit 1.

- 3 6. Notice of this matter was provided both orally on Monday, June 27, 2016, by Alan L.  
4 Geraci, Esq. to Chief Deputy County Counsel Timothy Barry and by email  
5 communication again on Wednesday, June 29, 2016, at 8:36 a.m. A true and correct copy  
6 of the aforementioned email is attached as Exhibit 2 herewith.

7  
8 Dated: June 29, 2016

  
9 Alan L. Geraci, Esq. of CARE Law Group PC,  
10 Attorneys for Plaintiffs Citizens Oversight and  
11 Raymond Lutz  
12  
13  
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**From:** Barry, Timothy M <Timothy.Barry@sdcounty.ca.gov>  
**Sent:** Friday, June 24, 2016 1:36 PM  
**To:** 'Alan Geraci'  
**Cc:** Karnavas, Stephanie  
**Subject:** RE: Email

Please email and include Stephanie Karnavas. Also, in response to your question yesterday, while I think it would be very unlikely that the Registrar would be in a position to certify the election before the hearing, I cannot stipulate that we would not. Please let me know how you want to proceed on this issue.

CONFIDENTIALITY NOTICE: This email message, including any attachments, is for the sole use of the intended recipient(s) and may contain information protected by the attorney-client privilege, the attorney work product doctrine or other applicable privileges or confidentiality laws or regulations. If you are not an intended recipient, you may not review, use, copy, disclose or distribute this message or any of the information in this message to anyone. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of this message, and any attachments. Unintended transmission shall not constitute waiver of the attorney-client or any other privilege.

Timothy Barry, Chief Deputy  
1600 Pacific Highway, Room 355  
San Diego, CA 92101  
Tel. 619-531-6259; Fax. 619-531-6005

---

**From:** Alan Geraci [mailto:alg3333@hotmail.com]  
**Sent:** Friday, June 24, 2016 12:52 PM  
**To:** Barry, Timothy M  
**Subject:** Email

Tim,

Shall I email papers to you or Dropbox?

Kindest Regards,

Alan L. Geraci, Esq.

CARE Law Group PC  
817 W. San Marcos Blvd.  
San Marcos, CA 92078  
Office: (619)231-3131  
Fax: (760)650-3484  
Mobile: (619)261-2048

Exhibit 1

---

**From:** Alan Geraci <alan@carelaw.net>  
**Sent:** Wednesday, June 29, 2016 8:36 AM  
**To:** Timothy M Barry  
**Subject:** Citizens Oversight v Vu, et al

As we discussed earlier this week, be on notice that I will be appearing ex parte in Dept 73 on June 30 at 8:30 am to ask the court to restrain any verification of June 7 election results until a full hearing can be done on injunctive relief.

Alan Geraci

Sent from my iPhone

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
CENTRAL

0100

MINUTE ORDER

DATE: 06/30/2016 TIME: 08:30:00 AM DEPT: C-73

JUDICIAL OFFICER PRESIDING: Joel R. Wohlfeil  
CLERK: Juanita Cerda  
REPORTER/ERM: Not Reported  
BAILIFF/COURT ATTENDANT: C. Rodriguez

CASE NO: **37-2016-00020273-CL-MC-CTL** CASE INIT.DATE: 06/16/2016  
CASE TITLE: **Lutz vs Michael Vu [IMAGED]**  
CASE CATEGORY: Civil - Limited CASE TYPE: Misc Complaints - Other

---

EVENT TYPE: Ex Parte

---

**APPEARANCES**

Alan L Geraci, counsel, present for Plaintiff(s).  
Raymond Lutz, Plaintiff is present.  
Timothy Barry, counsel, present for County of San Diego  
Teresa Dietz, counsel, present for County of San Diego

---

**Ex Parte Application For TRO Restraining Registrar From Certifying Election Until  
7/6/16 Hearing**

The Court, after hearing oral argument and taking into consideration papers filed, denies without prejudice the Ex Parte Application. The Court informs counsel it will not weigh in before the hearing on 7/6/16. The Court directs Attorney Geraci to file a courtesy copy of his reply to the opposition by 4:00 PM today.

Motion Hearing set for 7/6/16 is trailed until 3:00 PM.

*Joel R. Wohlfeil*

---

Judge Joel R. Wohlfeil



**F I L E D**  
Clk of the Superior Court

**JUN 30 2016**

**By: J. GERDA**

1 Alan L. Geraci, Esq. SBN108324  
2 **CARE Law Group PC**  
3 817 W. San Marcos Blvd.  
4 San Marcos, CA 92078  
5 619-231-3131 telephone  
6 760-650-3484 facsimile  
7 alan@carelaw.net email

8 Attorney for Plaintiffs, Citizens Oversight Inc. and Raymond Lutz

9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO-CENTRAL DIVISION**

11 CITIZENS OVERSIGHT INC., a Delaware )  
12 non-profit corporation; RAYMOND LUTZ, )  
13 an individual, )

14 Plaintiffs, )

15 vs. )

16 MICHAEL VU, San Diego Registrar of )  
17 Voters; HELEN N. ROBBINS-MEYER, )  
18 San Diego County Chief Administrative )  
19 Officer; COUNTY OF SAN DIEGO, a )  
20 public entity; DOES 1-10, )

21 Defendants. )

CASE NO: 37-2016-00020273-CL-MC-CTL

**PLAINTIFFS' NOTICE OF LODGEMENT  
OF EXHIBITS IN SUPPORT OF MOTION  
AND MOTION FOR PRELIMINARY  
INJUNCTION**

**Hon. Joel R. Wohlfeil, Judge**

Complaint filed: June 16, 2016  
No Trial Date Set

Hearing Date: July 6, 2016  
Hearing Time: 1:30 p.m.  
Dept: C-73

**Hon. Joel R. Wohlfeil**

22 **TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS O RECORD:**

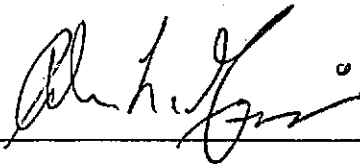
23 Plaintiffs, Citizens Oversight Inc. and Raymond Lutz, hereby lodge exhibits referenced in  
24 Plaintiffs First Amended Complaint for Declaratory and Injunctive Relief and Declaration of  
25 Raymond Lutz in Support of Plaintiffs Motion for Injunctive Relief.

- 26 1. Exhibit A (FAC) Elections Code Section 15360;
- 27 2. Exhibit B (FAC) Heading on results page of San Diego ROV website the morning after  
28 the election;
3. Exhibit C (FAC) Public Notice of Manual Tally from San Diego ROV Website;
4. Exhibit D (FAC) ROV List of Precincts;

- 1 5. Exhibit E (FAC) List ofVBM Batches selected;
- 2 6. Exhibit F (FAC) Email thread Raymond Lutz/Michael Vu dated June 10-13 2016;
- 3 7. Exhibit G (FAC) Registrar Policy Manual Re: One Percent Manual Tally
- 4 8. Exhibit 1 Omitted
- 5 9. Exhibit 2 (Decl Lutz) Email from Timothy Barry to Alan Geraci dated June 22, 2016;
- 6 10. Exhibit 3 (Decl Lutz) public selection process and video: DVD and transcript

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Dated: June 24, 2016




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6 Attorneys for Defendants  
7

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF SAN DIEGO**  
10 **CENTRAL DIVISION**

11 CITIZENS OVERSIGHT, INC., a Delaware  
non-profit corporation; RAYMOND LUTZ,  
12 an individual,

13 Plaintiffs,

14 v.

15 MICHAEL VU, San Diego Registrar of  
Voters, HELEN N. ROBBINS-MEYER, San  
16 Diego County Chief Administrative Officer,  
SAN DIEGO COUNTY, a public entity;  
17 DOES 1-10,

18 Defendants.

No. 37-2016-00020273-CL-MC-CTL  
Action Filed: June 16, 2016

**DEFENDANTS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
OPPOSITION TO PLAINTIFFS'  
MOTION FOR PRELIMINARY  
INJUNCTION**

**IMAGED FILE**

Date: July 6, 2016  
Time: 1:30 p.m.  
Dept.: 73  
ICJ: Hon. Joel Wohlfell

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1 Michael Vu, sued in his official capacity as the Registrar of Voters for the County of San  
2 Diego ("Vu"), Helen N. Robbins-Meyer, sued in her official capacity as the Chief  
3 Administrative Officer for the County of San Diego ("Robbins-Meyer"), and the County of San  
4 Diego ("County") respectfully submit the following memorandum of points and authorities in  
5 opposition to plaintiffs' request for a preliminary injunction.

## 6 INTRODUCTION

7 Political activists performing in the role of election watchdogs have initiated this lawsuit  
8 to bring attention to themselves, their cause, and their preferred political candidate. In a post on  
9 his Facebook page announcing that he would be holding another press conference on June 28<sup>th</sup>  
10 in front of the Registrar's office, plaintiff, Mr. Lutz, reminded his followers that "this is a  
11 performance so please play your roles!" (Defendants' Notice of Lodgment ("NOL"), Exhibit 1.)  
12 The canvassing of election results is serious public business that is costly in time and  
13 resources— not a reality television show.

14 Here, in an apparent attempt to garner as much publicity for their cause as possible,  
15 plaintiffs, who for many years have known the methodology used by the Registrar for  
16 conducting the 1 percent manual tally, strategically waited until the Registrar was in the midst of  
17 the official canvass of a Presidential Primary election to file suit claiming that this methodology  
18 violates the Elections Code. Plaintiffs' years delay in bringing this action belies their claim that  
19 they will suffer irreparable harm if the Registrar is not enjoined from certifying the election.  
20 Moreover, plaintiffs not only seek to enjoin the Registrar from fulfilling his statutory duties,  
21 they seek a mandatory injunction obligating him to include thousands of additional ballots in the  
22 manual tally. Plaintiffs have failed to demonstrate any irreparable harm much less the extreme  
23 circumstances that justify the issuance of a mandatory preliminary injunction. In short,  
24 plaintiffs have decidedly failed to meet their burden. The motion for preliminary injunction  
25 should be denied.

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STATEMENT OF FACTS

0108

**A. Prior to Every Election, the Registrar’s Office Tests the Electronic Voting Systems For Logic and Accuracy**

For the June 2016 Presidential Primary Election the Registrar’s office was required to print 8,160 different ballot types to account for all of the variations in the ballot. Each ballot type is coded so that the devices used to tabulate the ballots can recognize each ballot type and properly count the ballots. (Declaration of L. Michael Vu in Support of Defendants’ Opposition, etc. (“Vu Decl.”), p. 2, ll. 14-17.) Prior to every election, the Registrar’s office conducts a logic and accuracy test of the voting systems used to tabulate the election returns. (Vu Decl., p. 2, ll. 18-20.) The logic and accuracy test includes the following activities:

- Generating a pre-marked test deck which tests each contest and choices across each voting precinct in the election and tests the hardware and software in which ballots are to be tabulated.
- Scanning the pre-marked test deck through each method (i.e. central count and precinct count optical scan) in which ballots are tabulated.
- Testing the Direct Record Electronic (i.e. touchscreen) by manually casting votes onto it.
- Verifying the results of each method by comparing the pre-determined results against the results of tabulation system reports.

(Vu Decl., p. 2, ll. 21-28.)

The logic and accuracy test for the June 7, 2016 election occurred over a 10-day timeframe using approximately 20,000 cards for the test desk. (Vu Decl., p. 3, ll. 1-2.) The purpose of the logic and accuracy test is to ensure that vote tabulating system correctly counts the ballots. Election Code Section 15000.<sup>1</sup>

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<sup>1</sup> Unless otherwise noted, all references are to the Elections Code.



1        **B. Post-Election, the Registrar's Office Completes a Manual Tally of**  
2        **Ballots to Verify the Accuracy of the Voting Systems that Count the**  
3        **Ballots**

4        The Registrar is required to complete the official canvass and certify election results to  
5 the Secretary of State's office no later than 30 days after an election.<sup>2</sup> Section 15372. As part of  
6 the official canvass, Section 15360(a) directs the Registrar to conduct a "public manual tally of  
7 the ballots tabulated by [the vote tabulating system], including vote by mail ballots" using one  
8 of two approved methods. Section 15360(a)(1) directs elections officials to complete a manual  
9 tally of the ballots cast at 1 percent of the precincts chosen at random and, for each race not  
10 included in the initial group of precincts, one additional precinct. Alternatively, elections  
11 officials may opt to conduct a two part manual tally that includes the ballots cast in 1 percent of  
12 the precincts on election-day, excluding Vote by Mail ("VBM") ballots, and 1 percent of the  
13 VBM ballots cast in the election in batches randomly selected by the elections official. Section  
14 15360(a)(2). The purpose of the manual tally is to verify the accuracy of the voting systems that  
15 are used to count the ballots. Section 336.5. It is not a recount of election results. (Vu Decl.,  
16 p. 5, ll. 17-18.) This lawsuit involves a challenge to the methodology utilized by the Registrar  
17 for completing this manual tally.

18        **C. There are a Number of Circumstances in which a Voter Must Vote**  
19        **Provisionally**

20        California has, by statute, provided for provisional voting since 1984. Voters may be  
21 required to vote provisionally on the day of the election for a number of reasons. One reason  
22 that a voter may be asked to vote provisionally is because the voter is registered as a VBM voter  
23 and has been issued a mail ballot, but wants to vote at the poll. The purpose of having a voter  
24 registered as a VBM voter vote provisionally is to provide a safeguard against the possibility  
25 that the VBM voter has already voted, returned his or her VBM ballot and had his or her VBM  
26 ballot counted. (Vu Decl., p. 3, ll. 15-17.)

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<sup>2</sup> 28 days for persons voted for at the presidential primary for delegates to national conventions  
and for results for presidential electors. Section 15375(c) and (d).

1 Another reason for requiring a voter to vote provisionally, that occurs most frequently, is  
2 the voter does not appear on the roster of voters at the precinct where they appear to vote. For  
3 example, if a non-VBM voter is registered to vote in a precinct in Poway but the voter appears at  
4 a poll in Chula Vista, that voter would be given a provisional envelope in which the voter would  
5 place his voted ballot, which is then returned to the Registrar's office unopened for final  
6 determination. After voting, the voter is instructed to complete all of the information required  
7 on the outside of the provisional ballot envelope, including, among other things, the voter's  
8 current residence address. The voter is also required to sign and seal the envelope, and return  
9 the envelope to the poll worker for deposit into the ballot box. (Vu Decl., p. 3, ll. 18-26.)

10 Another reason for requiring a voter to vote provisionally is unique to "open primary"  
11 elections like we had in June. The Republican primary is a "closed election" meaning that only  
12 registered Republicans are allowed to vote for the Republican presidential candidates that appear  
13 on the Republican ballot. The Democratic primary is an "open primary" meaning that voters  
14 who have registered "No Party Preference" ("NPP") are allowed to vote for the Democratic  
15 presidential candidates. (Vu Decl., p. 3, l. 27- p.4, l. 4.)

16 In this election, the NPP voters were not allowed, however, to vote for the Democratic  
17 central committee contests that appear on the Democratic ballot. As a result, if an NPP voter  
18 wanted to vote for the Democratic presidential candidates, they were given a ballot that did not  
19 include the Democratic central committee contests. (Vu Decl., p. 4, ll. 6-10.) If a voter insisted  
20 on voting a ballot of a party with which he or she is not registered, or if a person who is  
21 registered as NPP insisted on voting a Republican ballot, those persons were asked to vote  
22 provisionally. (Vu Decl., p. 4, ll. 11-13.)

23 **D. The Processing of Provisional and VBM Ballots is Laborious and Time**  
24 **Intensive**

25 Each VBM ballot envelope and provisional ballot envelope is manually reviewed by the  
26 Registrar's staff. This review is very labor intensive. Provisional and VBM ballots must be  
27 scanned, sorted and signature checked against the records on file with the Registrar's office  
28 before the ballots are extracted from the envelopes and tabulated. In addition, a large percentage

1 of provisional ballots must be remade to eliminate votes for contests that the provisional voter  
2 was not eligible to vote for. (Vu Decl., p. 4, ll. 17-19.)

3 New legislation has further complicated the processing and handling of VBM ballots. As  
4 of this election, the Registrar’s office accepts and processes all VBM ballots that are postmarked  
5 and received within three days of the election. In addition, voters who failed to sign their VBM  
6 ballot envelope now have up to eight days after the election to provide the Registrar’s office  
7 with their signature. (Vu Decl., p. 4, ll. 23-27.)

8 The Registrar’s office utilizes approximately 135 election workers working every day to  
9 process the VBM and provisional ballots. The review and verification of the VBM and  
10 provisional ballots requires tens of thousands of man hours to complete. (Vu Decl., p. 5, ll. 1-3.)

11 **E. The Registrar Properly Initiated the Manual Tally For the June 2016**  
12 **Election Based on Election Night Results**

13 As of June 30<sup>th</sup>, the Registrar’s office has processed and counted approximately 490,000  
14 (approx. 63.64%) VBM ballots and approximately 41,000 (5.81%) provisional ballots cast. (Vu  
15 Decl., p. 3, ll. 5-8.) As of June 30<sup>th</sup> there were also approximately 18,500 to 21,500 provisional  
16 ballots to be processed and counted. (Vu Decl., p. 3, ll. 9-10.)

17 As of 8:00 p.m. June 8, 2016, the Registrar’s office had processed and included 256,685  
18 VBM ballots in the semi-official canvass, or “Election Night”, totals. These VBM ballots were  
19 received by the Registrar before election-day. (Vu Decl., p. 5, ll. 4-6.) When selecting VBM  
20 ballots to be included in the manual tally, the Registrar’s Office randomly selects 1 percent of  
21 the VBM ballots based on the semi-official canvass the day after the election. The County of  
22 San Diego does not include VBM ballots that have yet to be processed and added into the  
23 official canvass results. (Vu Decl., p. 6, ll. 18-19.) The processing and tabulation of the VBM  
24 ballots not included in the semi-official election results the day after the election takes most of  
25 the 30-day canvass period to complete. (Vu. Decl., p. 6, ll. 20-21.) The County of San Diego  
26 also does not include provisional ballots in the sample selected for the manual tally. For the  
27 reasons stated above, provisional ballots cannot be reviewed and processed until the VBM  
28 ballots have been reviewed, processed and included in the official count. (Vu Decl., p. 6, ll. 7-

1 10.) The completion of the review and inclusion of all the provisional ballots into the official  
2 count is generally not completed until the last day or two before the election needs to be  
3 certified. (Vu Decl., p. 6, ll. 11-12.)

4 In this election, the Registrar has opted to utilize the method for the 1 percent manual  
5 tally set forth in Section 15360(a)(1)(A). (Vu Decl., p. 6, ll. 1-2.) On June 8, 2016, members of  
6 the public participated in the random selection of precincts to be included in the 1 percent  
7 manual tally. In addition to the 16 precincts identified through the random selection process, the  
8 Registrar's office thereafter identified and included another 4 precincts in the manual tally so as  
9 to include ballots from precincts in which there are candidates and measures that were not  
10 included in the original selection of precincts. (Vu Decl., p. 5, ll. 23-27.) Utilizing the  
11 methodology set forth in Section 15360(a)(1), the Registrar projects that there will be 7,819  
12 ballots included in the manual tally. (Vu Decl., p. 6, ll. 1-3.) This amounts to 1.02% of the  
13 approximately 770,000 ballots cast in the election. (Vu Decl., p. 6, ll. 2-3.)

14 The manual tally is a very labor intensive process. The Registrar's office has multiple  
15 three-person panels working every day to complete the tally. The direct labor cost for each  
16 panel of workers for conducting the manual tally is approximately \$2,800 per week. (Vu Decl.,  
17 p. 6, ll. 8-10.)

## 18 ARGUMENT

### 19 I.

#### 20 INJUNCTIVE RELIEF IS NOT THE PROPER FORM OF RELIEF

21 Section 13314, subdivision (a)(1) states that "[a]n elector may seek a writ of mandate  
22 alleging that an error or omission has occurred, or is about to occur ... in the printing of ... a ...  
23 sample ballot ... or other official matter, or that any neglect of duty, has occurred, or is about to  
24 occur." A writ may issue under that provision upon proof that "the error, omission, or neglect is  
25 in violation of [the Elections Code] or the Constitution" **and** "[t]hat issuance of the writ will not  
26 substantially interfere with the conduct of the election." (§ 13314(a)(2); Emphasis added.)

27 While plaintiffs have alleged that the Registrar is acting in violation of the Elections  
28 Code they have not filed a mandamus action. Instead, plaintiffs seek a mandatory injunction

1 requiring the Registrar to manually tally thousands of additional ballots as part of the manual  
2 tally. Mandamus, rather than mandatory injunction, is the traditional remedy for the alleged  
3 failure of a public official to perform a legal duty and should be evaluated in light of the legal  
4 principles governing mandamus actions. *Common Cause v. Board of Supervisors* (1989) 49  
5 Cal.3d 432, 442. It is also the form of relief required by the Elections Code.

6 Plaintiffs should have filed a verified petition for a writ of mandamus pursuant to Section  
7 13314. They didn't and issuance of a mandatory injunction would be improper. In addition, in  
8 a mandamus action plaintiffs would expressly have the burden of demonstrating to the court that  
9 the granting of relief will not interfere with the conduct of the election. Plaintiffs have failed to  
10 meet this burden and plaintiffs' request for a preliminary injunction should be denied on this  
11 ground alone.

## 12 II.

### 13 **PLAINTIFFS ARE NOT ENTITLED TO A PRELIMINARY INJUNCTION**

#### 14 **A. Standard for Issuance of a Preliminary Injunction**

15 Plaintiffs seek a preliminary injunction to both enjoin the Registrar from certifying the  
16 election and to require him to perform the 1 percent manual tally in the manner they deem  
17 appropriate. Plaintiffs have not demonstrated that they are entitled to either.

18 In determining whether to grant a request for preliminary injunction, the court must also  
19 consider two factors: (1) whether the moving parties are likely to succeed on the underlying  
20 merits of their claim; and (2) the relative interim harm to the parties from the issuance or  
21 nonissuance of the injunction. *Butt v. State of California*, 4 Cal.4th 668, 677 (1992); *O'Connell*  
22 *v. Superior Court*, 141 Cal.App.4th 1452, 1463(2006). "In the absence of a verified showing of  
23 threatened harm by the moving party, a trial court exceeds its jurisdiction by granting a  
24 preliminary injunction." *Gray v. Superior Court*, 125 Cal.App.4th 629, 640 (2005)(citations  
25 omitted). Additionally, where, as here, plaintiffs seek to enjoin a public official or agency from  
26 performing their public duties, "public policy considerations also come into play. There is a  
27 general rule against enjoining public officers or agencies from performing their duties." *Tahoe*  
28 *Keys Property Owners' Assn. v. State Water Resources Control Bd.*, 23 Cal.App.4th 1459, 1471

1 (1994). In such cases, plaintiffs “must make a *significant showing of irreparable injury.*”

2 *Id.*(emphasis added).

3 An injunction that compels performance of an affirmative act that changes the position of  
4 the parties is considered to be a mandatory injunction. *Davenport v. Blue Cross of California*,  
5 52 Cal.App.4th 435, 446-447 (1997). “‘A preliminary mandatory injunction is rarely granted,  
6 and is subject to stricter review on appeal.’ [citation omitted] The granting of a mandatory  
7 injunction pending trial ‘is not permitted except in *extreme* cases where the right thereto is  
8 clearly established.’ [citation omitted]” *Shoemaker v. County of Los Angeles*, 37 Cal.App.4th  
9 618, 625 (1995)(emphasis added).

10 Plaintiffs have failed to demonstrate that they are entitled to the extraordinary remedy of  
11 a mandatory preliminary injunction. In addition, they have failed to satisfy their burden on  
12 either prong of the test to be applied. Plaintiffs are unlikely to prevail on the merits and the  
13 harm to defendants and the public if an injunction were to issue grossly outweighs any possible  
14 harm to plaintiffs.

15 **B. The Hardships Weigh Strongly in Favor of Defendants**

16 As stated above, the court must consider whether plaintiffs are likely to suffer greater  
17 injury if the injunction is denied than the defendants if the request is granted. *Shoemaker*, 37  
18 Cal.App.4th at 633. Plaintiffs have failed to demonstrate that any harm, let alone irreparable  
19 harm, will result in the event an injunction is denied.

20 The purpose of the manual tally is to “verify the accuracy of the automated count.”  
21 Section 336.5. Plaintiffs themselves acknowledge that the purpose of the manual tally is to  
22 provide “an objective and statistical basis to test the integrity” of the vote tabulating system.  
23 (Lutz Decl., p. 2, ll. 7-8.) It is not a recount and it is not intended to detect fraud. (Vu Decl.,  
24 p. 5, ll. 17-18.) Notwithstanding this fact, plaintiffs argue that the manual tally can be used to  
25 detect “nefarious conduct such as ‘hacking’” and infer that the process by which the Registrar is  
26 conducting the manual tally would somehow deprive them of the ability to detect such conduct  
27 and have fully verified count. (Lutz Decl., p. 2, ll. 9-10.) Plaintiff’s summary allegations lack  
28 factual support. Plaintiffs have been observing the Registrar’s conduct of the manual tally every

1 day since it started, yet they have not alleged that fraud has occurred or is about to occur if the  
2 Registrar does not adopt their method of performing the manual tally. Plaintiffs have neither  
3 demonstrated that the statistical likelihood of detecting fraud is greater if the Registrar were to  
4 adopt plaintiffs' methodology.

5 On the other hand, great injury will result to defendants, election contestants, the state,  
6 and the public if an injunction is issued. Inclusion of the provisional and the additional VBM  
7 ballots demanded by plaintiffs in the manual tally at this late date would prohibit the Registrar  
8 from completing the official canvass for up to another three weeks, well beyond the statutory  
9 period for certifying the election and at an additional cost to the County, estimated to be in  
10 excess of \$100,000. (Vu Decl., p. 7, ll. 4-7.)

11 Failure to certify the election in a timely manner would cast uncertainty on dozens of  
12 local election contests. Candidates who won the election outright or who require a runoff  
13 election would be placed in limbo. Implementation of measures approved by the voters, such as  
14 Prop I (the City of San Diego Minimum Wage Ordinance), which would otherwise become  
15 effective upon the City council's approval of the certification of the election would be delayed.  
16 Candidates that might be considering asking for a recount would not know the timeframe within  
17 which to demand a recount. Failure to timely certify the election results for San Diego County  
18 would also have a significant impact on the Secretary of State's ability to perform its statutory  
19 duties, as well as the post-election rights of voters under other provisions of the Elections Code.  
20 (Vu Decl., p. 7, ll. 10-16.; Declaration of Jana M. Lean filed concurrently herewith.)

21 Requiring the Registrar to divert its already stretched resources to manually tally  
22 thousands of additional ballots would also materially impact the Registrar's ability to complete  
23 the review and verification of hundreds of thousands of signatures on three local proposed  
24 initiatives that are of great importance to the voters of San Diego County. (Vu Decl., p. 8, ll. 1-  
25 3.)

26 Plaintiffs have failed to demonstrate any harm if the Registrar is not ordered to include  
27 the additional VBM and provisional ballots demanded by plaintiffs in the manual tally. On the  
28 ///

1 other hand, great harm will result if an injunction is issued and the certification of the election is  
2 delayed. The motion for preliminary injunction should be denied.

3 **C. Plaintiff is Unlikely to Prevail on the Merits**

4 A preliminary injunction will not be issued by the court absent a showing that plaintiffs  
5 have a reasonable probability of success on the merits of their claim. *San Francisco Newspaper*  
6 *Printing Co., Inc. v. Superior Court*, 170 Cal.App.3d 438, 442 (1985).

7 **1. Provisional Ballots are not Required to be Included in the**  
8 **1% Manual Tally**

9 The Registrar does not include provisional ballots in the manual tally. (Vu Decl., p. 6,  
10 ll. 7-8.) This practice is consistent with the practices of other counties. (See Decl. of Neal  
11 Kelley, p. 2, ll. 9-10; Decl. of Jill Lavine, p. 2, ll. 7-8; Decl. of Gail Pellerin, p. 2, ll. 8-9; Decl.  
12 of William Rousseau, p. 2, ll. 14-15; Decl. of Dean Logan, p. 7, ll. 10-11; Decl. of Joseph E.  
13 Canciamilla, p. 2, ll. 12-13; Decl. of Mary Bedard, p. 2, ll. 9-10, submitted herewith). It is also  
14 consistent with the original intent of the Legislature in conducting the 1 percent manual tally.

15 Prior to 2006, Section 15360 read in relevant part as follows: "During the official  
16 canvass of every election in which a voting system is used, the official conducting the election  
17 shall conduct a public manual tally of the ballots tabulated by those devises cast in 1 percent of  
18 the precincts chosen at random by the election official." (See Stats 1998, c. 1073, §31.) In  
19 2006, the Legislature enacted AB 1235 (Stats. 2006, c. 893, § 1), amending Section 15360 to  
20 read, in relevant part as follows: "... the official conducting the election shall conduct a public  
21 manual tally of the ballots tabulated by those devises, *including absent voters' ballots*, cast in 1  
22 percent of the precincts ...." (Emphasis added.)

23 But when introduced, the proposed amendment to Section 15360 read in relevant part as  
24 follows: "... the official conducting the election shall conduct a public manual tally of the  
25 ballots tabulated by those devises, *including absent voter's ballots, provisional ballots, and*  
26 *ballots cast at satellite locations*, cast in 1 percent of the precincts ...." (Emphasis added; See  
27 Defendants NOL, Exhibit 2.) The reference to "*provisional ballots, and ballots cast at satellite*  
28 *locations*" was deleted before the second reading of the bill in committee. As such, it is



1 therefore clear that the Legislature considered but rejected the idea that provisional ballots were  
2 to be included in the manual tally.

3 To prevent voter fraud, provisional ballots are not processed until after the tabulation of  
4 VBM ballots is complete. (Vu Decl., p. 3, ll. 15-17.) The processing and inclusion of VBM  
5 ballots is generally not completed until several weeks after the election giving election officials  
6 only a short period of time to process the provisional ballots. In fact, provisional ballots are  
7 being processed up to the last day before the election results must be certified. (Vu Decl., p. 6,  
8 ll. 11-12.) A manual tally of randomly selected provisional ballots could not occur until those  
9 ballots have been processed as part of the official canvass and would prevent the Registrar from  
10 being able to certify the election results within the statutorily required period. (Vu Decl., p. 6, ll.  
11 12-15.)

12 **2. The Registrar Properly Includes Vote by Mail Ballots in the**  
13 **1 Percent Manual Tally**

14 Prior to 2012, after the precincts to be included in the manual tally were selected,  
15 elections officials were required to locate the VBM ballots associated with the randomly  
16 selected precincts and integrate those ballots into the ballots cast at the precincts. Because the  
17 VBM ballots associated with a particular precinct may have been received at different times by  
18 different means of delivery, the VBM ballots associated with a particular precinct were spread  
19 across all of the VBM ballots included in the semi-official canvass.

20 In 2011, in an effort to streamline the process and reduce the costs of completing the  
21 manual tally, the Legislature enacted SB 985 (Stats 2011, c. 52, § 1.) amending Section 15360.  
22 As amended by SB 985, Section 15360 provides election officials with an alternative method for  
23 conducting the manual tally. Election officials can now conduct the manual tally by precinct as  
24 provided under AB 1235 (see § 15360(a)(1)) or, alternatively may conduct a two part manual  
25 tally that allows elections officials to manually tally randomly selected batches of VBM ballots,  
26 thereby avoiding the cost and time of having to integrate the VBM ballots into the randomly  
27 selected precincts (see § 15360(a)(2)).

28 ///

1 Both before and after 2012, the Registrar has only included VBM ballots included in the  
2 semi-official canvass in the manual tally. (Vu Decl., p. 6, ll. 7-10, 16-19.) This practice is  
3 consistent with the practices of other counties. (See Decl. of Jill Lavine, p. 2, ll. 20-22; Decl. of  
4 Gail Pellerin, p. 2, ll. 10-12; Decl. of William Rousseau, p. 2, l. 27 – p. 3, l. 7; Decl. of Dean  
5 Logan, p. 2 ll. 7-9, 23-26; Decl. of Joseph E. Canciamilla, p. 2, ll. 25-28; Decl. of Mary Bedard,  
6 p. 2, ll. 22-24, submitted herewith.) It is also consistent with the original intent of the  
7 Legislature in conducting the 1 percent manual tally, which is to provide a check on the  
8 accuracy of the vote tabulating system. The practice also reflects the practical necessity of  
9 having to complete the official canvass of the election and certify the results within the  
10 statutorily mandated period after the election.

11 Another reason for not waiting to conduct the manual tally until all of the VBM ballots  
12 are included in the official canvass is that if the Registrar waited and then determined that the  
13 vote tabulating devices were not recording the votes accurately, there would be no time left to  
14 correct the error and rerun all of the ballots previously included in the official canvass. (Vu.  
15 Decl., p. 6, l. 24 - p. 7, l. 3.) It is in the public's interest and it is a prudent business practice to  
16 begin and complete the manual tally as soon as possible. Waiting until all of the VBM ballots  
17 have been processed and included in the official canvass would inarguably substantially delay  
18 that process.

19 **D. Plaintiff is Guilty of Laches**

20 Plaintiff, Raymond Lutz has been self-proclaimed “watchdog of elections” since at least  
21 2008. (Lutz Decl. p. 2, l. 1.) Specifically, he has observed nearly all, if not all, of the  
22 gubernatorial and presidential primaries and general elections conducted in San Diego County  
23 since at least 2008. (Lutz Decl., p. 1, ll. 25-27.) By his own declaration, Mr. Lutz has been  
24 familiar with and aware of the County of San Diego's process and procedures for conducting  
25 elections for many years. In fact, in a recent press release issued by plaintiffs, Mr. Lutz was  
26 quoted as saying: “They [defendants] have had a habit of short-cutting this audit procedure for  
27 years.” (Defendants' NOL, Exh. 3.)

28 ///

1 San Diego County has never included provisional ballots in the manual tally. (Vu Decl.  
2 p. 6, ll. 7-8.) San Diego County has never included VBM ballots processed and counted after  
3 the semi-official canvass in the manual tally. (Vu Decl., p. 6, ll. 18-19.) If Mr. Lutz perceived  
4 this as a problem, he could have filed the instant declaratory relief action at any time since he  
5 became a watchdog over the process and procedures utilized by the County of San Diego for  
6 conducting the manual tally required by Section 15360. He did not.

7 Instead, he waited until nine days after the June 7<sup>th</sup> Presidential Primary to file his action,  
8 and waited another seven days to come into court to request a hearing on his motion for a  
9 preliminary injunction. The hearing on plaintiffs' request for a preliminary injunction is set for  
10 July 6, 2016, one working day before the Registrar must certify the election. Delay may be  
11 considered in determining whether a claimed injury is "irreparable". *O'Connell v. Superior*  
12 *Court, supra*, 141 Cal.App.4th 1452, 1481.

13 Plaintiffs could have filed the instant action at any time. Instead, they waited until the  
14 Registrar was engulfed in completing the official canvass of a Presidential Primary election, the  
15 most difficult and complicated of elections. Plaintiffs delay in bringing their action should not  
16 be rewarded and their motion should be denied on the basis of laches alone.

17 **E. If Injunctive Relief is Granted, Plaintiff Must Post an Undertaking**

18 Before a preliminary injunction may be issued, the court must order the plaintiffs to post  
19 an undertaking. (C.C.P. §529.) The purpose of the bond is to cover any damages defendants  
20 may sustain by reason of the wrongful issuance of the injunction. *Tom Cat Productions, Inc. v.*  
21 *Michael's Los Feliz*, 102 Cal.App.4th 474, 478 (2002).

22 Here, if the court issues a mandatory injunction requiring the Registrar to include  
23 provisional and additional VBM ballots in the manual tally and delay certification of the election  
24 until that process is complete, the County will expend hundreds of additional hours of staff time  
25 and incur thousands of dollars in labor costs. It is estimated that these costs will exceed  
26 \$100,000. (Vu Decl., p. 7, ll. 6-7.)

27 ///

28 ///

**CONCLUSION**

1  
2 Plaintiffs' request for a preliminary injunction should be denied for any one of a number  
3 of reasons. Plaintiffs have sought the wrong form of relief. Plaintiffs have failed to demonstrate  
4 that they are likely to succeed on the merits of their claim and the hardships that would result in  
5 the event an injunction were to issue weighs heavily in favor of defendants. In addition,  
6 plaintiffs unduly delayed in bringing their action. For each of these reasons, the equitable  
7 remedy of injunctive relief should be denied.

8 DATED: June 30, 2016

THOMAS E. MONTGOMERY, County Counsel

9  
10 By: /s/ Timothy M. Barry  
11 TIMOTHY M. BARRY, Chief Deputy  
12 Attorneys for Defendants  
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0121

1 THOMAS E. MONTGOMERY, County Counsel  
County of San Diego  
2 By TIMOTHY M. BARRY, Chief Deputy (State Bar No. 89019)  
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5 *Exempt From Filing Fees (Gov't Code § 6103)*

6 Attorneys for Defendants

7  
8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF SAN DIEGO**  
10 **CENTRAL DIVISION**

11 CITIZENS OVERSIGHT, INC., a Delaware  
non-profit corporation; RAYMOND LUTZ,  
12 an individual,

13 Plaintiffs,

14 v.

15 MICHAEL VU, San Diego Registrar of  
Voters, HELEN N. ROBBINS-MEYER, San  
16 Diego County Chief Administrative Officer,  
SAN DIEGO COUNTY, a public entity;  
17 DOES 1-10,

18 Defendants.

No. 37-2016-00020273-CL-MC-CTL  
Action Filed: June 16, 2016

**DEFENDANTS' REQUEST FOR  
JUDICIAL NOTICE IN SUPPORT OF  
DEFENDANTS' OPPOSITION TO  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

**IMAGED FILE**

Date: July 6, 2016  
Time: 1:30 p.m.  
Dept.: 73  
ICJ: Hon. Joel Wohlfiel

19  
20 Pursuant to California Elections Code Sections 451 and 452, defendants hereby request  
21 the court to take judicial notice of the following documents that are attached to defendants'  
22 notice of lodgment filed concurrently with defendants' papers in opposition to plaintiffs' request  
23 for preliminary injunction:

24 Exhibit 1 to defendants' notice of lodgment.

25 Pursuant to Evidence Code Section 451(a), this court must take judicial notice of the  
26 public statutory law of the state. Pursuant to Evidence Code Section 452(c), this court may take  
27 judicial notice of "[o]fficial acts of the legislative, executive, and judicial departments ... of any  
28 state of the United States." Exhibit 1 is a true and correct copy of the redlined version of

1 Elections Code Section 15360 as amended by AB 1235 in 2006, as it appears on the Official  
2 California Legislative Information webpage, and defendants therefore request that the court take  
3 judicial notice of this document.

4 DATED: June 30, 2016,

THOMAS E. MONTGOMERY, County Counsel

By: /s/Timothy M. Barry  
TIMOTHY M. BARRY, Chief Deputy  
Attorneys for Defendants

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County of San Diego  
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6 Attorneys for Defendants

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12 an individual,

13 Plaintiffs,

14 v.

15 MICHAEL VU, San Diego Registrar of  
Voters, HELEN N. ROBBINS-MEYER, San  
16 Diego County Chief Administrative Officer,  
SAN DIEGO COUNTY, a public entity;  
17 DOES 1-10,

18 Defendants.

No. 37-2016-00020273-CL-MC-CTL  
Action Filed: June 16, 2016

**DEFENDANTS' EVIDENTIARY  
OBJECTIONS TO THE DECLARATION  
OF RAYMOND LUTZ AND  
PLAINTIFFS' EXHIBITS SUBMITTED  
IN SUPPORT OF PLAINTIFFS'  
MOTION FOR PRELIMINARY  
INJUNCTION**

**IMAGED FILE**

Date: July 6, 2016  
Time: 1:30 p.m.  
Dept.: 73  
ICJ: Hon. Joel Wohlfiel

20 Defendants hereby submit the following evidentiary objections to the declaration of  
21 Raymond Lutz and to plaintiffs' exhibits submitted in support of their motion for preliminary  
22 injunction:

23 **Objections to the Declaration of Raymond Lutz**

24 **Statement No. 1:**

25 "The San Diego County Registrar of Voters has refused to comply with California  
26 Elections Code Section 15360." (Lutz Decl., p. 2, ll. 4-5.)

27 **Objection No. 1:**

28 Lacks foundation, improper legal opinion.

**Statement No. 2:**

"The purpose of Section 15360 is to provide an objective and statistical basis to test the integrity of the voting method and process. Discrepancies can isolate defective tabulation, employee error, or nefarious conduct such as "hacking." The modern age of voting with electronic and automated systems has been heavily scrutinized in recent election cycles." (Lutz Decl., p. 2, ll. 7-11.)

**Objection No. 2:**

Lacks foundation.

**Statement No. 3:**

"The Registrar has unilaterally decided that his office does not need to fully comply with Section 15360 by not including a manual tally of all ballots cast in 1% of the precincts chosen at random." (Lutz Decl., p. 2, ll. 13-15.)

**Objection No. 3:**

Lacks foundation, improper legal opinion.

**Statement No. 4:**

"The word "cast" is not explicitly defined by the elections code, but the common meaning is that a ballot is "cast" when it leaves control of the voter and is turned over to the elections official for tally. In the precinct polling place, a ballot is "cast" when it is inserted into the ballot box. VBM ballots are "cast" when they are submitted to the U.S. Postal Service or hand-delivered to a precinct polling place or to the Registrar of Voters." (Lutz Decl., 3, ll. 8-13.)

**Objection No. 4:**

Lacks foundation.

**Statement No. 5:**

"There is a possibility that a compromised worker or external "hacker" who has gained access to this computer will have modified the results. For example, a malicious person might be able to shift 10,000 or 20,000 votes from one candidate to another, and attempt to conceal



1 this gross alteration by distributing smaller alterations to perhaps 1,000 different precincts by  
 2 shilling 10 to 20 votes in each precinct." (Lutz Decl., p. 4, l. 27 - p. 5, l. 3.)

3 **Objection No. 5:**

4 Lacks foundation.

5 **Statement No. 6:**

6 "In this election, there was also an unusually high number of provisional ballots primarily  
 7 due to No Party Preference (NPP) voters who have the option of choosing a partisan ballot only  
 8 from the presidential race for most parties (but not the Republican Party). These "crossover"  
 9 ballots included the presidential race for that party, all the nonpartisan races, but not the strictly  
 10 partisan races such as central committee members. In this election, the vast majority of cases  
 11 were NPP voters choosing the DEM ballot (Democratic Party crossover ballot) so they could  
 12 vote for Sen. Bernie Sanders." (Lutz Decl., p. 7, ll. 12-18.)

13 **Objection No. 6:**

14 Lacks foundation, lacks personal knowledge, hearsay.

15 **Statement No. 7:**

16 "In the June 7 primary election, there were so many voters requesting NPP/DEM ballots  
 17 that many precincts ran out of those ballots. In those cases, the poll workers opted to use a  
 18 regular DEM ballot but to omit the central committee race. These ballots were also treated as  
 19 provisional ballots." (Lutz Decl., p. 7, l. 27 - p. 8, l. 5.)

20 **Objection No. 7:**

21 Lacks foundation, lacks personal knowledge, hearsay.

22 **Objections to Plaintiffs' Exhibits**

23 **Exhibit:**

24 Exhibit 3 (Plaintiffs' Notice of Lodgment, Item 10).

25 ///

26 ///

27 ///

28 ///

**Objection:**

Exhibit 3 lacks foundation, is not properly authenticated, lacks foundation, hearsay. In addition, defendants were not served with and have not received the video or DVD referenced in the notice of lodgment.

DATED: June 30, 2016,

THOMAS E. MONTGOMERY, County Counsel

By: s/Timothy M. Barry  
TIMOTHY M. BARRY, Chief Deputy  
Attorneys for Defendants

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0127

1 THOMAS E. MONTGOMERY, County Counsel  
County of San Diego  
2 By TIMOTHY M. BARRY, Chief Deputy (State Bar No. 89019)  
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5 *Exempt From Filing Fees (Gov't Code § 6103)*

6 Attorneys for Defendants

7  
8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF SAN DIEGO**  
10 **CENTRAL DIVISION**

11 CITIZENS OVERSIGHT, INC., a Delaware  
Corporation; RAYMOND LUTZ, an  
12 individual,

13 Plaintiffs,

14 v.

15 MICHAEL VU, San Diego Registrar of  
Voters, HELEN N. ROBBINS-MEYER, San  
16 Diego County Chief Administrative Officer,  
SAN DIEGO COUNTY, a public entity;  
17 DOES 1-10

18 Defendants.

No. 37-2016-00020273-CL-MC-CTL  
Action Filed: June 16, 2016

**DECLARATION OF TIMOTHY M.  
BARRY IN SUPPORT OF  
DEFENDANTS' OPPOSITION TO  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

**IMAGED FILE**

Date: July 6, 2016  
Time: 1:30 p.m.  
Dept.: 73

ICJ: Hon. Joel Wohlfiel

19  
20 I, TIMOTHY M. BARRY, declare as follows:

21 1. I make this declaration based on my own personal belief, except for matters set  
22 forth on information and belief, and as to those matters I believe them to be true, and if called  
23 upon to testify herein, I could and would competently testify to the following facts:

24 2. I am a Chief Deputy County Counsel with the Office of County Counsel for the  
25 County of San Diego. I have been employed with the Office of County Counsel for almost  
26 eighteen years.

27 3. I am the attorney who has been responsible for defending the defendants in the  
28 above-captioned litigation.


1 4. Attached to the Notice of Lodgment submitted with defendants' papers in  
2 opposition to plaintiffs' motion for preliminary injunction as Exhibit 1 is a true and correct copy  
3 of a post by Mr. Lutz on his Facebook page dated June 27, 2016.

4 5. Attached to the Notice of Lodgment submitted with defendants' papers in  
5 opposition to plaintiffs' motion for preliminary injunction as Exhibit 2 is a true and correct copy  
6 of a redlined version of Elections Code §15360 as amended by AB 1235 in 2006. As reflected  
7 on Exhibit 1, when introduced the proposed amendment to Elections Code §15360 referenced  
8 "provisional ballots, and ballots cast at satellite locations, . . . ." Also as reflected on Exhibit 1,  
9 that proposed language was deleted from the proposed legislation prior to the enactment of the  
10 amendment.

11 6. Attached to the Notice of Lodgment submitted with defendants' papers in  
12 opposition to plaintiffs' motion for preliminary injunction as Exhibit 3 is a true and correct copy  
13 of a press release issued by Citizens' Oversight on June 27, 2016.

14 Executed this 30<sup>th</sup> day of June, 2016, at San Diego, California.

15 I declare under penalty of perjury that the foregoing is true and correct.

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19 TIMOTHY M. BARRY  
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06/30/2016 at 04:41:00 PM

Clerk of the Superior Court  
By Marivel Martinez-Frengel, Deputy Clerk

1 THOMAS E. MONTGOMERY, County Counsel  
County of San Diego  
2 By TIMOTHY M. BARRY, Chief Deputy (State Bar No. 89019)  
STEPHANIE KARNAVAS, Senior Deputy (State Bar No. 255596)  
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17 DOES 1-10

18 Defendants.

No. 37-2016-00020273-CL-MC-CTL  
Action Filed: June 16, 2016

**DECLARATION OF L. MICHAEL VU  
IN SUPPORT OF DEFENDANTS'  
OPPOSITION TO PLAINTIFFS'  
MOTION FOR PRELIMINARY  
INJUNCTION**

**IMAGED FILE**

Date: July 6, 2016

Time: 1:30 p.m.

Dept.: 73

ICJ: Hon. Joel Wohlfiel

19  
20 I, L. MICHAEL VU, declare as follows:

21 1. I make this declaration based on my own personal belief, except for matters set  
22 forth on information and belief, and as to those matters I believe them to be true, and if called  
23 upon to testify herein, I could and would competently testify to the following facts:

24 2. I am employed by the County of San Diego as the Registrar of Voters. I have held  
25 the position of Registrar of Voters since December 28, 2012.

26 3. I was originally employed by the County of San Diego as the Assistant Registrar  
27 of Voters in April 9, 2007.

28 ///

1 4. From August 2003 to March 2007, I was employed by the County of Cuyahoga in  
2 Ohio as the Director of the Board of Elections.

3 5. From 1998 to 2003, I was employed as the Elections Manager by the County of  
4 Salt Lake, in Salt Lake City, Utah.

5 6. As the Registrar of Voters for the County of San Diego my duties include  
6 overseeing the conduct of all federal, state and local elections; verifying initiative, referendum  
7 and recall petitions; maintaining the list of eligible registered voters and political district  
8 boundaries; supervise subordinate staff; develop and monitor annual budget; administer and  
9 negotiate contracts; direct the planning and implementation of policies and programs.

10 7. I am familiar with the voter records maintained by the Registrar's office in the  
11 normal course of business.

12 8. I am also familiar with policies and practices of the Registrar's office regarding  
13 the handling, processing, and tabulation of ballots both before and after an election.

14 9. For the June 2016 Presidential Primary Election the Registrar's office was  
15 required to print 8,160 different ballot types to account for all of the variations in the ballot.  
16 Each ballot type is coded so that the devices used to tabulate the ballots can recognize each  
17 ballot type and properly count the ballots.

18 10. Prior to every election, the Registrar's office conducts a logic and accuracy test of  
19 the voting systems used to tabulate the election returns. The logic and accuracy test includes the  
20 following activities:

- 21 • Generating a pre-marked test deck which tests each contest and choices across each  
22 voting precinct in the election and tests the hardware and software in which ballots are to  
23 be tabulated.
- 24 • Scanning the pre-marked test deck through each method (i.e. central count and precinct  
25 count optical scan) in which ballots are tabulated.
- 26 • Testing the Direct Record Electronic (i.e. touchscreen) by manually casting votes onto it.
- 27 • Verifying the results of each method by comparing the pre-determined results against the  
28 results of tabulation system reports.

1 11. The logic and accuracy test for the June 7, 2016 election occurred over a 10-day  
2 timeframe using approximately 20,000 cards for the test desk.

3 12. There were 1,522 polling locations in the County for the June 2016 Presidential  
4 Primary.

5 13. In the June 2016 Presidential Primary Election there were approximately 770,000  
6 ballots cast. As of the date of this declaration the Registrar's office has processed and counted  
7 approximately 490,000 (approx. 63.64%) VBM ballots and approximately 41,000 (5.32%)  
8 provisional ballots. We estimate that there are approximately 500 more VBM ballots to be  
9 adjudicated. As of the date of this declaration, we estimate that there are approximately 18,500  
10 to 21,500 provisional ballots to be processed and counted.

11 14. California has, by statute, provided for provisional voting since 1984.

12 21. Voters may be required to vote provisionally on the day of the election for a  
13 number of reasons. One reason that a voter may be asked to vote provisionally is because the  
14 voter is registered as a VBM voter, has been issued a mail ballot but wants to vote at the poll.  
15 The purpose of having a voter registered as a VBM voter vote provisionally is to provide a  
16 safeguard against the possibility that the VBM voter has already voted, returned his or her VBM  
17 ballot and had his or her VBM ballot counted.

18 15. Another reason for requiring a voter to vote provisionally, that occurs most  
19 frequently, is the voter does not appear on the roster of voters at the precinct where they appear  
20 to vote. For example, if a non-VBM voter is registered to vote in a precinct in Poway but the  
21 voter appears at a poll in Chula Vista, that voter would be given a provisional envelope in which  
22 the voter would place his voted ballot, which is then returned to the Registrar's office unopened  
23 for final determination. After voting, the voter is instructed to complete all of the information  
24 required on the outside of the provisional ballot envelope, including, among other things, the  
25 voter's current residence address. The voter is also required to sign and seal the envelope, and  
26 return the envelope to the poll worker for deposit into the ballot box.

27 16. Another reason for requiring a voter to vote provisionally is unique to "open  
28 primary" elections. The Republican primary is a "closed election" meaning that only registered

1 Republicans are allowed to vote for the Republican presidential candidates that appear on the  
2 Republican ballot. The Democrat's primary is an "open primary" meaning that voters who have  
3 registered "No Party Preference" are allowed to vote for the Democrat's presidential candidates.  
4 But this was further complicated by the fact that while the Democrat's primary was an open  
5 primary, voters registered as No Party Preference were not allowed to vote for the Democrat's  
6 central committee contests that appeared on the Democrat's ballot. As a result, if a No Party  
7 Preference voter wanted to vote for the Democrat's presidential candidates, they were given a  
8 ballot that did not include the Democrats central committee contests. If the No Party Preference  
9 voter insisted on voting the version of the Democratic ballot that contained the Democratic  
10 central committee contest, those persons were asked to vote provisionally.

11 17. If a voter insisted on voting a ballot of a party with which he or she is not  
12 registered, or if a person who is registered as "no party preference" insisted on voting a  
13 Republican ballot, those persons were asked to vote provisionally.

14 18. By statute, the Registrar's office has thirty days to process all of the ballots cast  
15 and to certify the state and local election results. Also, by statute the Registrar must certify the  
16 presidential contests to the Secretary of State within 28 days after the election.

17 19. Each VBM ballot envelope and provisional ballot envelope is manually reviewed  
18 by the Registrar's staff. This review is very labor intensive. Provisional and VBM ballots must  
19 be scanned, sorted and signature checked against the records on file with our office before the  
20 ballots are extracted from the envelopes and tabulated. In addition, a large percentage of  
21 provisional ballots must be remade to eliminate votes for contests that the provisional voter was  
22 not eligible to vote for.

23 20. New legislation has further complicated the processing and handling of VBM  
24 ballots. As of this election, our office will accept and process all VBM ballots that are  
25 postmarked and received within three days of the election. In addition, voters who failed to sign  
26 their VBM ballot envelope now have up to eight days after the election to provide our office  
27 with their signature.

28 ///



1 21. We have approximately 135 election workers working every day to process the  
2 VBM and provisional ballots. The review and verification of the VBM and provisional ballots  
3 requires tens of thousands of man hours to complete.

4 22. As of 8:00 p.m. June 8, 2016, our office had processed and included 256,685  
5 VBM ballots in the semi-official canvass totals. These VBM ballots were received by our office  
6 before election-day.

7 23. For the reasons stated above, provisional ballots cannot be reviewed, processed  
8 and counted until all of the VBM ballots have been accounted for and processed.

9 24. During the certification period, Elections Code § 15360(a)(1) requires elections  
10 officials to complete a manual tally of the ballots cast at 1 percent of the precincts chosen at  
11 random and, for each race not included in the initial group of precincts, one additional precinct.

12 25. Pursuant to Elections Code § 15360(a)(2), elections officials may, instead of  
13 conducting a manual tally of the ballots cast at 1 percent of the precincts, opt to conduct a two  
14 part manual tally that includes the ballots cast in 1 percent of the precincts on election-day,  
15 excluding VBM ballots, and 1 percent of the VBM ballots cast in the election in batches  
16 randomly selected by the elections official.

17 26. The purpose of the manual tally is to verify the accuracy of the voting systems that  
18 are used to count the ballots. It is not a recount of election results.

19 27. I have personally witnessed Mr. Lutz observing our post-election canvass of  
20 elections going back as far as 2008. During this time Mr. Lutz has, on many occasions,  
21 requested and received materials, including procedures, related to how our office conducts the  
22 1 percent manual tally.

23 28. On June 8, 2016, members of the public participated in the random selection of  
24 precincts to be included in the 1 percent manual tally. In addition to the 16 precincts identified  
25 through the random selection process, our office thereafter identified and included another 4  
26 precincts in the manual tally so as to include ballots from precincts in which there are candidates  
27 and measures that were not included in the original selection of precincts.

28 ///

1 29. The County of San Diego is currently conducting the 1 percent manual tally  
2 pursuant to Elections Code § 15360(a)(1). Utilizing this method, the Registrar's office will  
3 include 7,819 ballots (approx. 1.02%) in the manual tally.

4 30. The manual tally is also a very labor intensive process. We have multiple three-  
5 person panels working every day to complete the tally. The labor cost for each panel of workers  
6 for conducting the manual tally is approximately \$2,800 per week.

7 31. The County of San Diego does not include provisional ballots in the sample  
8 selected for the manual tally. As stated above, provisional ballots cannot be reviewed and  
9 processed until the VBM ballots have been reviewed, processed and included in the official  
10 count.

11 32. In my experience, the Registrar's office is not done processing all of the  
12 provisional ballots until the last day or two before the election needs to be certified. If  
13 provisional ballots were included in the manual tally, the Registrar's office would be unable to  
14 complete the canvass of the election results and certify the election within the certification  
15 period.

16 33. When selecting VBM ballots to be included in the manual tally, the Registrar's  
17 Office randomly selects 1 percent of the VBM ballots based on the semi-official canvass the day  
18 after the election. The County of San Diego does not include VBM ballots that have yet to be  
19 processed and added into the official canvass results.

20 34. The processing and tabulation of the provisional and VBM ballots not included in  
21 the semi-official election results takes most of the canvass period to complete. If our office was  
22 required to include these ballots in the manual tally, it would seriously jeopardize our ability to  
23 complete the canvass and certify the election within the certification period.

24 35. In addition, waiting until the processing and tabulation of the provisional and  
25 VBM ballots was complete before commencing the manual tally would potentially create other  
26 problems. Under this scenario, if there was a systemic issue with the tabulation system, we

27 ///

28 ///

1 would not discover such problem until very late in the certification period and we would be  
2 unable to correct the problem and rerun all of the ballots before the end of the certification  
3 period. This would be a disservice to the public and likely result in public outcry.

4 36. Requiring the Registrar's office to include provisional and the remaining VBM  
5 ballots in the manual tally at this late date would delay our ability to certify the election results  
6 for up to three weeks. In addition, we estimate that the cost to include the provisional and  
7 additional VBM ballots in the manual tally would exceed \$100,000.

8 37. A delay in our certification of the election results would also delay the  
9 certification of all federal and statewide matters on the ballot by the Secretary of State's office.

10 38. A delay in the certification of the election results would also create chaos with  
11 respect to local contests. Candidates who won the election outright or who require a runoff  
12 election would be placed in limbo. Implementation of measures approved by the voters, such as  
13 Prop. I (the City of San Diego Minimum Wage Ordinance) which would otherwise become  
14 effective upon the City council's approval of the certification of the election would be delayed.  
15 Candidates that might be considering asking for a recount would not know the timeframe within  
16 which to demand a recount.

17 39. In addition to conducting the official canvass, our office is in the process of  
18 manually reviewing and verifying hundreds or thousands of signatures on various state and local  
19 initiative petitions. The review and verification of the signatures on 10 proposed statewide  
20 initiatives must be completed by June 30<sup>th</sup>. The review and verification of the signatures on the  
21 three local initiatives must be completed by July 10<sup>th</sup>, 12<sup>th</sup> and 15<sup>th</sup> respectively. This includes a  
22 review and verification of over 100,000 signatures on the Citizen's Plan initiative.

23 III

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25 III

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0137

06/30/2016 at 04:41:00 PM

Clerk of the Superior Court  
By Marivel Martinez-Frengel, Deputy Clerk

1 THOMAS E. MONTGOMERY, County Counsel  
County of San Diego  
2 By TIMOTHY M. BARRY, Chief Deputy (State Bar No. 89019)  
STEPHANIE KARNAVAS, Senior Deputy (State Bar No. 255596)  
3 1600 Pacific Highway, Room 355  
San Diego, CA 92101-2469  
4 Telephone: (619) 531-6259  
E-mail: [timothy.barry@sdcounty.ca.gov](mailto:timothy.barry@sdcounty.ca.gov)  
5 Exempt From Filing Fees (Gov't Code § 6103)

6 Attorneys for Defendants

7  
8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF SAN DIEGO**  
10 **CENTRAL DIVISION**

11 CITIZENS OVERSIGHT, INC, a Delaware  
non-profit corporation; RAYMOND LUTZ,

12 Plaintiffs,

13 v.

14 MICHAEL VU, San Diego County Registrar  
of Voters, HELEN N. ROBBINS-MEYER,  
15 San Diego County Chief Administrative  
16 Officer, SAN DIEGO COUNTY, a  
Municipality

17 Defendants.

No. 37-2016-00020273-CL-MC-CTL  
Action Filed: June 16, 2016

**DECLARATION OF NEAL KELLEY  
IN SUPPORT OF DEFENDANTS'  
OPPOSITION TO PLAINTIFF'S  
MOTION FOR INJUNCTIVE RELIEF**

**IMAGED FILE**

Date: July 6, 2016  
Time: 1:30PM  
Dept.: C-73  
ICI: Hon. Joel Wohlfeil

18  
19  
20 I, Neal Kelley, declare as follows:

- 21 1. I make this declaration based on my own personal belief and if called upon to  
22 testify herein, I could and would competently testify to the following facts:  
23 2. I have been employed with the County of Orange since 2004.  
24 3. I am currently employed by the County of Orange as the Registrar of Voters. I  
25 have held my current position since 2006.  
26 4. As the Registrar of Voters of the County of Orange I oversee the administration of  
27 all federal, state and local elections for the County.

28 ///

1 5. I am familiar with policies and practices of the County of Orange regarding the  
2 handling, processing, and tabulation of ballots both before and after an election and with those  
3 practices regarding the completion of the 1 percent manual tally required by Elections Code §  
4 15360.

5 6. The County of Orange conducts the 1 percent manual tally pursuant to Elections  
6 Code § 15360(a)(2).

7 7. The County of Orange conducts its random draw for purposes of its 1 percent  
8 manual tally on the Thursday following the election.

9 8. The County of Orange does not include provisional ballots in the sample selected  
10 for the 1 percent manual tally.

11 9. When selecting the batches of vote by mail ("VBM") ballots to be included in the  
12 1 percent manual tally, Orange County includes the VBM ballots that have been processed and  
13 included in the official count as of the Friday after the election.

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

16 Executed this 30<sup>th</sup> day of June 2016, at MEADVILLE, CA

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Neal Kelley

0139

1 THOMAS E. MONTGOMERY, County Counsel  
County of San Diego  
2 By TIMOTHY M. BARRY, Chief Deputy (State Bar No. 89019)  
1600 Pacific Highway, Room 355  
3 San Diego, CA 92101-2469  
Telephone: (619) 531-6259  
4 E-mail: [timothy.barry@sdcountry.ca.gov](mailto:timothy.barry@sdcountry.ca.gov)  
*Exempt From Filing Fees (Gov't Code § 6103)*

5  
6 Attorneys for Defendants

7  
8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF SAN DIEGO**  
10 **CENTRAL DIVISION**

11 RAYMOND LUTZ,  
12 Plaintiff,

13 v.

14 MICHAEL YU, San Diego County Registrar  
of Voters, HELEN N. ROBBINS-MEYER,  
15 San Diego County Chief Administrative  
Officer, SAN DIEGO COUNTY, a  
16 Municipality

17 Defendant.

No. 37-2016-00020273-CL-MC-CTL  
Action Filed: June 18, 2016

**DECLARATION OF JOSEPH E.  
CANCIAMILLA IN SUPPORT OF  
DEFENDANTS' OPPOSITION TO  
PLAINTIFF'S MOTION FOR  
INJUNCTIVE RELIEF**

**IMAGED FILE**

Date: July 6, 2016  
Time: 1:30PM  
Dept: C-73  
ICJ: Hon. Joel Wohlfell

19  
20 I, Joseph E. Canciamilla, declare as follows:

21 1. I make this declaration based on my own personal belief, except for matters set  
22 forth on information and belief, and as to those matters I believe them to be true, and if called  
23 upon to testify herein, I could and would competently testify to the following facts:

24 2. I have been employed with the County of Contra Costa since April 1, 2013.

25 3. I am currently employed by the County of Contra Costa as the County Clerk-  
26 Recorder-Registrar of Voters. I have held my current position since April 1, 2013.

27 4. As the County Clerk- Recorder-Registrar of Voters for the County of Contra Costa  
28 I oversee the administration of all federal, state and local elections for the County.

**DECLARATION OF JOSEPH E. CANCIAMILLA IN SUPPORT OF DEFENDANTS' OPPOSITION TO  
PLAINTIFF'S MOTION FOR INJUNCTIVE RELIEF**



1           5. I am familiar with policies and practices of the County of Contra Costa regarding  
2 the handling, processing, and tabulation of ballots both before and after an election and with  
3 those practices regarding the completion of the 1% percent manual tally required by Elections  
4 Code § 15360.

5           6. The County of Contra Costa conducts the 1 percent manual tally pursuant to  
6 Elections Code § 15360(a)(2).

7           7. The only purpose of the 1% manual tally is to verify that there was no  
8 programming, mechanical or operator errors which caused a discrepancy between the machine  
9 count and the manual count. The term 1% implies that a sampling technique is sufficient for  
10 making this determination otherwise it would require that 100% of the ballots be manually  
11 recounted.

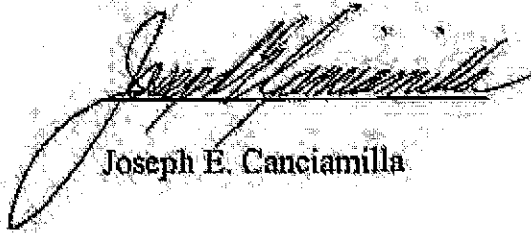
12           8. The County of Contra Costa does not include provisional ballots in the sample  
13 selected for the 1 percent manual tally. If provisional ballots were included in the 1 percent  
14 manual tally, it would be very difficult, if not impossible, for the Elections Office to complete  
15 the official canvass of the election results and certify the election within the 30-day certification  
16 period. This is because, to combat voter fraud, provisional ballots cannot be reviewed,  
17 processed and counted until all of the vote by mail ("VBM") ballots have been processed and  
18 counted. Each VBM ballot envelope and provisional ballot envelope must be manually  
19 reviewed by my staff. VBM envelopes must be signature checked before ballots are extracted  
20 and added to the count. Provisional ballot envelopes are not only signature checked but  
21 additional voter information provided on the envelope must also be verified. Due to the time  
22 intensive nature of this manual review and the fact that all VBM ballots will not have been  
23 received by my office as of date of the election, the processing and tabulation of the provisional  
24 and VBM ballots often continues well into the 30 day certification period.

25           9. When selecting VBM ballots to be included in the 1 percent manual tally, the  
26 Elections Office randomly selects 1 percent of the VBM ballots based on the semi-official  
27 election results the day after the election for the same reasons as pertain to the processing of  
28 Provisional Ballots.



1 Executed this 30th day of June, 2016, at Martinez, California.

2 I declare under penalty of perjury that the foregoing is true and correct.

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5 Joseph E. Canciamilla  
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0142

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

06/30/2016 at 04:41:00 PM

Clerk of the Superior Court  
By Marivel Martinez-Frengel, Deputy Clerk

1 THOMAS E. MONTGOMERY, County Counsel  
County of San Diego  
2 By TIMOTHY M. BARRY, Chief Deputy (State Bar No. 89019)  
1600 Pacific Highway, Room 355  
3 San Diego, CA 92101-2469  
Telephone: (619) 531-6259  
4 E-mail: [timothy.barry@sdccounty.ca.gov](mailto:timothy.barry@sdccounty.ca.gov)  
*Exempt From Filing Fees (Gov't Code § 6103)*

5  
6 Attorneys for Defendants

7  
8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF SAN DIEGO**  
10 **CENTRAL DIVISION**

11 RAYMOND I.UTZ,

12 Plaintiff,

13 v.

14 MICHAEL VU, San Diego County Registrar  
of Voters, HELEN N. ROBBINS-MEYER,  
15 San Diego County Chief Administrative  
Officer, SAN DIEGO COUNTY, a  
16 Municipality

17 Defendant.

} No. 37-2016-00020273-CL-MC-CTL  
} Action Filed: June 18, 2016

} **DECLARATION OF GAIL PELLERIN IN**  
} **SUPPORT OF DEFENDANTS'**  
} **OPPOSITION TO PLAINTIFF'S MOTION**  
} **FOR INJUNCTIVE RELIEF**

} **IMAGED FILE**

} Date: July 6, 2016  
} Time: 1:30PM  
} Dept.: C-73  
} ICJ: Hon. Joel Wohlfehl

18  
19  
20 I, Gail Pellerin, declare as follows:

21 1. I make this declaration based on my own personal belief and if called upon to  
22 testify herein, I could and would competently testify to the following facts:

23 2. I have been employed with the County of Santa Cruz since July 1993.

24 3. I am currently employed by the County of Santa Cruz as the County Clerk. I have  
25 held my current position since July 2004.

26 4. As County Clerk of the County of Santa Cruz, I oversee the administration of all  
27 federal, state and local elections for the County.

28 5. I am familiar with policies and practices of the County of Santa Cruz Elections

1 Department regarding the handling, processing, and tabulation of ballots both before and after  
2 an election and with those practices regarding the completion of the 1 percent manual tally  
3 required by Elections Code § 15360.

4 6. The County of Santa Cruz conducts the 1 percent manual tally pursuant to  
5 Elections Code § 15360(a)(1).

6 7. The County of Santa Cruz conducts its random draw for purposes of its 1 percent  
7 manual tally on the Thursday following the election.

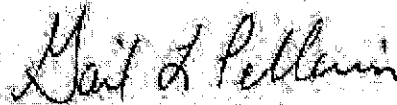
8 8. The County of Santa Cruz does not include provisional ballots in the 1 percent  
9 manual tally.

10 9. The County of Santa Cruz does include vote-by-mail (VBM) ballots counted  
11 Election Night in the 1 percent manual tally. The County of Santa Cruz does not include VBM  
12 ballots that have yet to be processed and added into the official election results.

13 10. If the Elections Department was required to include all VBM ballots and all  
14 provisional ballots in the 1 percent manual tally, it would be very difficult, if not impossible, for  
15 the Department to complete the canvass of the election results and certify the election within the  
16 28-day certification period required for presidential elections.

17  
18 Executed this 29th day of June, 2016, at Santa Cruz, California.

19 I declare under penalty of perjury that the foregoing is true and correct.

20  
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22 Gail Pellerin  
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0144

**ELECTRONICALLY FILED**

Superior Court of California,  
County of San Diego

06/30/2016 at 04:41:00 PM

Clerk of the Superior Court  
By Marivel Martinez-Frengel, Deputy Clerk

1 THOMAS E. MONTGOMERY, County Counsel  
County of San Diego  
2 By TIMOTHY M. BARRY, Chief Deputy (State Bar No. 89019)  
1600 Pacific Highway, Room 355  
3 San Diego, CA 92101-2469  
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*Exempt From Filing Fees (Gov't Code § 6103)*

5  
6 Attorneys for Defendants  
7

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF SAN DIEGO**  
10 **CENTRAL DIVISION**

11 RAYMOND LUTZ,  
12 Plaintiff,

13 v.

14 MICHAEL VU, San Diego County Registrar  
of Voters, HELEN N. ROBBINS-MEYER,  
15 San Diego County Chief Administrative  
Officer, SAN DIEGO COUNTY, a  
16 Municipality  
17 Defendant.

No. 37-2016-00020273-CL-MC-CTL  
Action Filed: June 18, 2016

**DECLARATION OF WILLIAM  
ROUSSEAU IN SUPPORT OF  
DEFENDANTS' OPPOSITION TO  
PLAINTIFF'S MOTION FOR  
INJUNCTIVE RELIEF**

**IMAGED FILE**

Date: July 6, 2016  
Time: 1:30PM  
Dept.: C-73  
ICJ: Hon. Joel Wohlfell

18  
19  
20 I, William Rousseau, declare as follows:

21 1. I make this declaration based on my own personal belief, except for matters set  
22 forth on information and belief, and as to those matters I believe them to be true, and if called  
23 upon to testify herein, I could and would competently testify to the following facts:

24 2. I have been employed with the County of Sonoma since November 15, 1983.

25 3. I am currently employed by the County of Sonoma as the County Clerk-Recorder-  
26 Assessor-Registrar of Voters. I have held my current position since my appointment by the  
27 Sonoma County Board of Supervisors in December of 2012, and I was formally re-elected to  
28 this position by the voters in on June 3, 2014.

1 4. As the Registrar of Voters of the County of Sonoma I oversee the administration  
2 of all federal, state, and local elections for the County.

3 5. I am familiar with policies and practices of the County of Sonoma regarding the  
4 handling, processing, and tabulation of ballots both before and after an election and with those  
5 practices regarding the completion of the one percent (1%) manual tally required by Elections  
6 Code § 15360.

7 6. The County of Sonoma conducts the 1-percent manual tally pursuant to Elections  
8 Code § 15360(a)(1).

9 7. The County of Sonoma conducts its random draw for purposes of its 1-percent  
10 manual tally the not more than two days following the election. The 1-percent sample is  
11 randomly generated through the County's election management system. For the most recent  
12 election (the June 7 Presidential Primary), the random 1-percent manual tally draw was  
13 conducted on June 9, 2016.

14 8. The County of Sonoma does not include provisional ballots in the sample selected  
15 for the 1-percent manual tally. If provisional ballots were included in the 1-percent manual  
16 tally, it would be very difficult, if not impossible, for the Registrar's office to complete the  
17 canvass of the election results and certify the election within the 30-day certification period.  
18 This is because, to combat voter fraud, provisional ballots cannot be reviewed, processed and  
19 counted until all of the precinct ballots and the vote by mail ("VBM") ballots have been  
20 processed and counted. Each VBM ballot envelope and provisional ballot envelope must be  
21 manually reviewed by my staff. VBM envelopes must be signature checked before ballots are  
22 extracted and added to the count. Provisional ballot envelopes are not only signature checked  
23 but additional voter information provided on the envelope must also be verified. Due to the time  
24 intensive nature of this manual review and the fact that all VBM ballots will not have been  
25 received by my office as of date of the election, the processing and tabulation of the VBM  
26 ballots often continues well into the 30 day certification period.

27 9. When selecting VBM ballots to be included in the 1-percent manual tally, the  
28 Registrar's office randomly selects 1-percent of the VBM ballots based on the semi-official  
election results not more than two days after the election. The County of Sonoma does not

1 include VBM ballots that have yet to be processed and added into the official election results,  
2 because, again, the processing and tabulation of the VBM ballots not included in the semi-  
3 official election results the day after the election takes most of the 30 day certification period to  
4 complete. If our office was required to wait to include all VBM ballots in the 1-percent manual  
5 tally, it would be very difficult, if not impossible, for the Registrar's office to complete the  
6 canvass of the election results and certify the election within the 30-day period certification  
7 period.

8  
9 Executed this 28<sup>th</sup> day of June, 2016, at Santa Rosa, California.

10 I declare under penalty of perjury that the foregoing is true and correct.

11  
12   
13 William Rousseau

01147

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

06/30/2016 at 04:41:00 PM

Clerk of the Superior Court  
By Marivel Martinez-Frengel, Deputy Clerk

1 THOMAS E. MONTGOMERY, County Counsel  
County of San Diego  
2 By TIMOTHY M. BARRY, Chief Deputy (State Bar No. 89019)  
1600 Pacific Highway, Room 355  
3 San Diego, CA 92101-2469  
Telephone: (619) 531-6259  
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*Exempt From Filing Fees (Gov't Code § 6103)*  
5

6 Attorneys for Defendants  
7

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF SAN DIEGO**  
10 **CENTRAL DIVISION**

11 RAYMOND LUTZ,  
12 Plaintiff,

13 v.

14 MICHAEL VU, San Diego County Registrar  
of Voters, HELEN N. ROBBINS-MEYER,  
15 San Diego County Chief Administrative  
Officer, SAN DIEGO COUNTY, a  
16 Municipality

17 Defendant.  
18

} No. 37-2016-00020273-CL-MC-CTL  
} Action Filed: June 18, 2016

} **DECLARATION OF JILL LAVINE IN**  
} **SUPPORT OF DEFENDANTS'**  
} **OPPOSITION TO PLAINTIFF'S**  
} **MOTION FOR INJUNCTIVE RELIEF**

} **IMAGED FILE**

} Date: July 6, 2016  
} Time: 1:30PM  
} Dept.: C-73  
} ICJ: Hon. Joel Wohlfell  
}

19 I, Jill LaVine, declare as follows:

20 1. I make this declaration based on my own personal belief and if called upon to  
21 testify herein, I could and would competently testify to the following facts:

22 2. I have been employed with the County of Sacramento since 1987.

23 3. I am currently employed by the County of Sacramento as the Registrar of Voters.  
24 I have held my current position since August 3, 2003.

25 4. As the Registrar of Voters of the County of Sacramento I oversee the  
26 administration of all federal, state and local elections for the County.

27 5. I am familiar with policies and practices of the County of Sacramento regarding  
28 the handling, processing, and tabulation of ballots both before and after an election and with

**DECLARATION OF JILL LAVINE IN SUPPORT OF DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION  
FOR INJUNCTIVE RELIEF**

1 those practices regarding the completion of the 1 percent manual tally required by Elections  
2 Code § 15360.

3 6. The County of Sacramento conducts the 1 percent manual tally pursuant to  
4 Elections Code § 15360(a)(1)

5 7. The County of Sacramento conducted its random draw for purposes of its 1  
6 percent manual tally on June 6, 2016, the day before the June Presidential Primary Election.

7 8. The County of Sacramento does not include provisional ballots in the sample  
8 selected for the 1 percent manual tally. If provisional ballots were included in the 1 percent  
9 manual tally, it would be very difficult, if not impossible, for the Registrar's office to complete  
10 the canvass of the election results and certify the election within the 30-day certification period.  
11 This is because, to combat voter fraud, provisional ballots cannot be reviewed, processed and  
12 counted until all of the vote by mail ("VBM") ballots have been processed and counted. Each  
13 VBM ballot envelope and provisional ballot envelope must be manually reviewed by my staff.  
14 VBM envelopes must be signature checked before ballots are extracted and added to the count.  
15 Provisional ballot envelopes are not only signature checked but additional voter information  
16 provided on the envelope must also be verified. Due to the time intensive nature of this manual  
17 review and the fact that all VBM ballots will not have been received by my office as of date of  
18 the election, the processing and tabulation of the VBM ballots often continues well into the 30  
19 day certification period.

20 9. When selecting VBM ballots to be included in the 1 percent manual tally, the  
21 Registrar's office randomly selects 1 percent of the VBM ballots based on the semifinal official  
22 election results the day after the election. The County of Sacramento does not include VBM  
23 ballots that have yet to be processed and added into the official election results, because, again,  
24 the processing and tabulation of the VBM ballots not included in the semifinal official election  
25 results takes most of the 30 day certification period to complete. If our office was required to  
26 wait to include all VBM ballots in the 1 percent manual tally, it would be very difficult, if not  
27 impossible, for the Registrar's office to complete the canvass of the election results and certify  
28 the election within the 30-day certification period.



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Executed this 28 day of June, 2016, at Sacramento, California.

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

  
\_\_\_\_\_  
Jill LaVine

1 THOMAS E. MONTGOMERY, County Counsel  
County of San Diego  
2 By TIMOTHY M. BARRY, Chief Deputy (State Bar No. 89019)  
1600 Pacific Highway, Room 355  
3 San Diego, CA 92101-2469  
Telephone: (619) 531-6259  
4 E-mail: [timothy.barry@sdcounty.ca.gov](mailto:timothy.barry@sdcounty.ca.gov)  
*Exempt From Filing Fees (Gov't Code § 6103)*  
5

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**06/30/2016** at 04:41:00 PM  
Clerk of the Superior Court  
By Marivel Martinez-Frengel, Deputy Clerk

6 Attorneys for Defendants  
7

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF SAN DIEGO**  
10 **CENTRAL DIVISION**

11 RAYMOND LUTZ,  
12 Plaintiff,

13 v.

14 MICHAEL VU, San Diego County Registrar  
of Voters, HELEN N. ROBBINS-MEYER,  
15 San Diego County Chief Administrative  
Officer, SAN DIEGO COUNTY, a  
16 Municipality  
17 Defendant.

No. 37-2016-00020273-CL-MC-CTL  
Action Filed: June 18, 2016

**DECLARATION OF DEAN LOGAN IN  
SUPPORT OF DEFENDANTS'  
OPPOSITION TO PLAINTIFF'S MOTION  
FOR INJUNCTIVE RELIEF**

**IMAGED FILE**

Date: July 6, 2016  
Time: 1:30PM  
Dept.: C-73  
ICJ: Hon. Joel Wohlfiel

20 I, Dean C. Logan, declare as follows:

21 1. I make this declaration based on my own personal belief, except for matters set  
22 forth on information and belief, and as to those matters I believe them to be true, and if called  
23 upon to testify herein, I could and would competently testify to the following facts:

24 2. I have been employed with the County of Los Angeles for approximately 10 years.

25 3. I am currently employed by the County of Los Angeles as the Registrar-  
26 Recorder/County Clerk. I have held my current position since July 2006.

27 ///

1           4.     As the Registrar-Recorder/County Clerk for the County of Los Angeles I oversee  
2 the conduct of all federal, state and local elections for the County of Los Angeles.

3           5.     I am familiar with policies and practices of the County of Los Angeles regarding  
4 the handling, processing, and tabulation of ballots both before and after an election and with  
5 those practices regarding the completion of the 1% percent manual tally required by Elections  
6 Code § 15360.

7           6.     The County of Los Angeles conducts the 1 percent manual tally pursuant to  
8 Elections Code § 15360(a)(1). This 1 percent is based on the semi-official election results,  
9 which includes polls ballots and vote by mail ballots.

10          7.     The County of Los Angeles does not include provisional ballots in the sample  
11 selected for the 1 percent manual tally. If provisional ballots were included in the 1 percent  
12 manual tally, it would be very difficult, if not impossible, for the Registrar's office to complete  
13 the official canvass of the election results and certify the election within the 30-day certification  
14 period. This is because, to combat voter fraud, provisional ballots cannot be reviewed,  
15 processed and counted until all of the vote by mail ("VBM") ballots have been processed and  
16 counted. Each VBM ballot envelope and provisional ballot envelope must be manually  
17 reviewed by my staff. VBM envelopes must be signature checked before ballots are extracted  
18 and added to the count. Provisional ballot envelopes are not only signature checked but  
19 additional voter information provided on the envelope must also be verified. Due to the time  
20 intensive nature of this manual review and the fact that all VBM ballots will not have been  
21 received by my office as of the date of the election, the processing and tabulation of the  
22 provisional and VBM ballots often continues well into the 30 day certification period.

23          8.     The County of Los Angeles does not include VBM ballots that have yet to be  
24 processed and added into the official election results, because, again, the processing and  
25 tabulation of the VBM ballots not included in the semi-official election results the day after the  
26 election takes most of the 30 day certification period to complete. If our office was required to  
27 wait to include all VBM ballots in the 1 percent manual tally, it would be very difficult, if not  
28 impossible, for the Registrar's office to complete the canvass of the election results and certify

1 the election within the 30-day certification period.

2 Executed this 30 day of June, 2016, at Norwalk, California.

3 I declare under penalty of perjury that the foregoing is true and correct.

4 *Dean C. Logan*

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7 DEAN LOGAN  
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1 THOMAS E. MONTGOMERY, County Counsel  
County of San Diego  
2 By TIMOTHY M. BARRY, Chief Deputy (State Bar No. 89019)  
1600 Pacific Highway, Room 355  
3 San Diego, CA 92101-2469  
Telephone: (619) 531-6259  
4 E-mail: [timothy.barry@sdcourty.ca.gov](mailto:timothy.barry@sdcourty.ca.gov)  
*Exempt From Filing Fees (Gov't Code § 6103)*

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**06/30/2016** at 04:41:00 PM  
Clerk of the Superior Court  
By Marivel Martinez-Frengel, Deputy Clerk

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6 Attorneys for Defendants

7  
8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF SAN DIEGO**  
10 **CENTRAL DIVISION**

11 RAYMOND LUTZ,  
12 Plaintiff,

13 v.

14 MICHAEL VU, San Diego County Registrar  
of Voters, HELEN N. ROBBINS-MEYER,  
15 San Diego County Chief Administrative  
Officer, SAN DIEGO COUNTY, a  
16 Municipality

17 Defendant.

) No. 37-2016-00020273-CL-MC-CTL  
) Action Filed: June 18, 2016

) **DECLARATION OF MARY BEDARD IN**  
) **SUPPORT OF DEFENDANTS'**  
) **OPPOSITION TO PLAINTIFF'S MOTION**  
) **FOR INJUNCTIVE RELIEF**

) **IMAGED FILE**

) Date: July 6, 2016  
) Time: 1:30PM  
) Dept.: C-73  
) ICF: Hon. Joel Wohlfell

18  
19  
20 I, Mary Bedard, declare as follows:

21 1. I make this declaration based on my own personal belief, except for matters set  
22 forth on information and belief, and as to those matters I believe them to be true, and if called  
23 upon to testify herein, I could and would competently testify to the following facts:

24 2. I have been employed with the County of Kern since 8/11/98.

25 3. I am currently employed by the County of Kern as the Registrar of Voters. I have  
26 held my current position since 1/7/13.

27 4. As the Registrar of Voters of the County of Kern I oversee the administration of  
28 all federal, state and local elections for the County.

1 5. I am familiar with policies and practices of the County of Kern regarding the  
2 handling, processing, and tabulation of ballots both before and after an election and with those  
3 practices regarding the completion of the 1 percent manual tally required by Elections Code §  
4 15360.

5 6. The County of Kern conducts the 1 percent manual tally pursuant to Elections  
6 Code § 15360(a)(2).

7 7. The County of Kern conducts its random draw for purposes of its 1 percent  
8 manual tally on the 6<sup>th</sup> day following the election.

9 8. The County of Kern does not include provisional ballots in the sample selected for  
10 the 1 percent manual tally. If provisional ballots were included in the 1 percent manual tally, it  
11 would be very difficult, if not impossible, for the Registrar's office to complete the canvass of  
12 the election results and certify the election within the 30-day certification period. This is  
13 because, to combat voter fraud, provisional ballots cannot be reviewed, processed and counted  
14 until all of the vote by mail ("VBM") ballots have been processed and counted. Each VBM  
15 ballot envelope and provisional ballot envelope must be manually reviewed by my staff. VBM  
16 envelopes must be signature checked before ballots are extracted and added to the count.  
17 Provisional ballot envelopes are not only signature checked but additional voter information  
18 provided on the envelope must also be verified. Due to the time intensive nature of this manual  
19 review and the fact that all VBM ballots will not have been received by my office as of date of  
20 the election, the processing and tabulation of the VBM ballots often continues well into the 30  
21 day certification period.

22 9. When selecting VBM ballots to be included in the 1 percent manual tally, the  
23 Registrar's office randomly selects 1 percent of the VBM ballots based on the semifinal official  
24 election results the day after the election. The County of Kern does not include VBM ballots  
25 that have yet to be processed and added into the official election results, because, again, the  
26 processing and tabulation of the VBM ballots not included in the semifinal official election  
27 results takes most of the 30 day certification period to complete. If our office was required to  
28 wait to include all VBM ballots in the 1 percent manual tally, it would be very difficult, if not  
impossible, for the Registrar's office to complete the canvass of the election results and certify

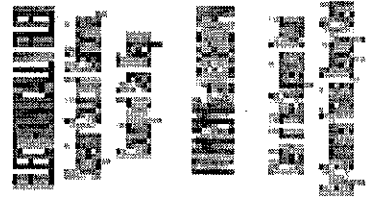
1 the election within the 30-day period certification period.

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Executed this 29th day of June, 2016, at Bakersfield, California.

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

  
Mary Bedard



1 THOMAS E. MONTGOMERY, County Counsel  
 County of San Diego  
 2 By TIMOTHY M. BARRY, Chief Deputy (State Bar No. 89019)  
 STEPHANIE KARNAVAS, Senior Deputy (State Bar No. 25559)  
 3 1600 Pacific Highway, Room 355  
 San Diego, CA 92101-2469  
 4 Telephone: (619) 531-6259  
 E-mail: [timothy.barry@sdcounty.ca.gov](mailto:timothy.barry@sdcounty.ca.gov)  
 5 *Exempt From Filing Fees (Gov't Code § 6103)*

6 Attorneys for Defendants

7  
 8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 9 **IN AND FOR THE COUNTY OF SAN DIEGO**  
 10 **CENTRAL DIVISION**

11 CITIZENS OVERSIGHT, INC., a Delaware  
 non-profit corporation; RAYMOND LUTZ,  
 12 an individual,

13 Plaintiffs,

14 v.

15 MICHAEL VU, San Diego Registrar of  
 Voters, HELEN N. ROBBINS-MEYER,  
 16 San Diego County Chief Administrative  
 Officer, SAN DIEGO COUNTY, a public  
 17 entity; DOES 1-10,

18 Defendants.

) No. 37-2016-00020273-CL-MC-CTL  
 Action Filed: June 16, 2016

) **DEFENDANTS' NOTICE OF LODGMENT**  
**OF EXHIBITS IN SUPPORT OF**  
**DEFENDANTS' OPPOSITION TO**  
**PLAINTIFFS' MOTION FOR**  
**PRELIMINARY INJUNCTION**

) **IMAGED FILE**

) Date: July 6, 2016  
 Time: 1:30 p.m.  
 Dept.: 73  
 ICJ: Hon. Joel Wohlfell

19  
 20 Defendants hereby lodge the following documents with the court in support of their  
 21 opposition to plaintiffs' motion for preliminary injunction:

22 Exhibit 1 – Facebook posting by Mr. Lutz dated June 27, 2016.

23 Exhibit 2 – Redlined copy of Elections Code Section 15360 as amended by AB 1235 in  
 24 2006.

25 Exhibit 3 – Press Release by Citizens' Oversight dated June 27, 2016

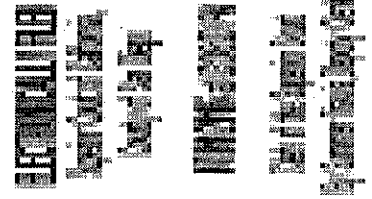
26 DATED: June 30, 2016,

THOMAS E. MONTGOMERY, County Counsel

27 By: /s/Timothy M. Barry  
 TIMOTHY M. BARRY, Chief Deputy  
 28 Attorneys for Defendants



1 THOMAS E. MONTGOMERY, COUNTY COUNSEL  
 2 County of San Diego  
 3 By TIMOTHY M. BARRY, Chief Deputy (State Bar No. 89019)  
 4 STEPHANIE KARNAVAS, Senior Deputy (State Bar No. 255596)  
 5 1600 Pacific Highway, Room 355  
 6 San Diego, CA 92101-2469  
 Telephone: (619) 531-6259  
 E-mail: [timothy.barry@sdccounty.ca.gov](mailto:timothy.barry@sdccounty.ca.gov)  
*Exempt From Filing Fees (Gov't Code § 6103)*



7 Attorneys for Defendants

8  
 9  
 10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 11 **IN AND FOR THE COUNTY OF SAN DIEGO**  
 12 **CENTRAL DIVISION**

13	CITIZENS OVERSIGHT, INC., a Delaware	)	No. 37-2016-00020273-CL-MC-CTL
14	Corporation; RAYMOND LUTZ, an	)	Action Filed: June 18, 2016
15	individual,	)	
16	Plaintiffs,	)	<b>DECLARATION OF JANA M. LEAN IN</b>
17	v.	)	<b>SUPPORT OF DEFENDANTS'</b>
18		)	<b>OPPOSITION TO PLAINTIFFS'</b>
19	MICHAEL VU, San Diego Registrar of	)	<b>MOTION FOR PRELIMINARY</b>
20	Voters, HELEN N. ROBBINS-MEYER, San	)	<b>INJUNCTION</b>
21	Diego County Chief Administrative Officer,	)	<b>IMAGED FILE</b>
22	SAN DIEGO COUNTY, a public entity;	)	Date: July 6, 2016
23	DOES 1-10	)	Time: 1:30 p.m.
24	Defendants.	)	Dept.: 73
25		)	ICJ: Hon. Joel Wohlfell

26 I, Jana M. Lean, declare as follows:

27 1. I am the Chief of the Elections Division, employed in the office of the California  
 28 Secretary of State. I have served in the capacity since May 2010. Prior to assuming my current

///

1 position, I served in various roles in the Elections Division for more than 12 years, and am  
2 familiar with all aspects of the Division's work.

3  
4 2. The Secretary of State's statutory duties with respect to the June 7, 2016, Presidential  
5 Primary Election include certifying the presidential election results and issuing certificates to the  
6 presidential nominees and to the presidential delegates by July 9, 2016. Additionally, the  
7 Secretary of State must prepare, certify, and file a Statement of Vote from the compiled election  
8 returns of all 58 counties within California by July 15, 2016.

9  
10 3. Elections Code sections 6220 [Democratic Party], 6420-6422 [Republican Party], 6640-  
11 6641 [American Independent Party], 6843-6844 [Peace and Freedom] require the Secretary of  
12 State, no later than the 32<sup>nd</sup> day after the election, to compile and file a statement of the  
13 canvassed presidential election returns of all parties filed by the county elections officials, and  
14 shall issue certificates to the presidential nominees and to the presidential delegates.  
15 Accordingly, the Secretary of State must complete these duties on or before July 9, 2016.

16  
17 4. Elections Code section 15501(b) requires the Secretary of State to certify the results of  
18 the June 7, 2016, Presidential Primary Election no later than the 38<sup>th</sup> day after the election.  
19 Accordingly, the Secretary of State must certify the results of the election on or before July 15,  
20 2016. Any court order extending the time Michael Vu, the San Diego County Registrar of  
21 Voters, has to certify San Diego County's elections results to the Secretary of State, that does  
22 not include a date certain to complete counting the ballots that is as close as practicable to the  
23 deadlines mandated by Elections Code sections 15372(a) [July 7, 2016] and 15375 [July 5 and  
24 July 7, 2016], may affect the Secretary of State's ability to meet the statutory duty imposed by  
25 Elections Code section 15501(b), as well as some post-election rights of voters under other  
26 provisions of the Elections Code.  
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1 5. Moreover, if the Secretary of State is not able to meet the July 15, 2016, statutory  
2 deadline for certifying the election results imposed by Elections Code section 15501, there  
3 would be an ensuing domino effect on the conduct of the November 8, 2016, General Election.  
4 The two candidates receiving the most votes for each voter-nominated office contest in the June  
5 7, 2016, Presidential Primary Election move on the November 8, 2016, General Election. Once  
6 the primary election results have been certified, the top-two vote getting candidates from the  
7 primary election begin to prepare and meet the deadlines associated with the general election.  
8 For example, July 20, 2016, is the last day for U.S. Senate candidates to purchase space for a  
9 candidate statement in the state Voter Information Guide; August 2, 2016, is the last day a  
10 candidate who moved on to the general election may request a different ballot designation; and  
11 August 12, 2016, is that last day for the other state candidates, who moved on to the general  
12 election, to purchase space for a candidate statement in their respective county's sample ballot.  
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16 6. Attached hereto, marked as "Exhibit A," is a true and correct copy of the June 7, 2016,  
17 Presidential Primary Election Calendar prepared by the Elections Division. This calendar  
18 contains the statutory deadlines associated with the presidential primary election and has been  
19 distributed to all 58 California county elections officials, and may be accessed on the Secretary  
20 of State's website at [http://elections.cdn.sos.ca.gov/statewide-elections/2016-primary/section-5-  
21 primary-election-calendar.pdf](http://elections.cdn.sos.ca.gov/statewide-elections/2016-primary/section-5-primary-election-calendar.pdf).  
22


23 7. Attached hereto, marked as "Exhibit B," is a true and correct copy of the November 8,  
24 2016, General Election Calendar prepared by the Elections Division. This calendar contains the  
25 statutory deadlines associated with the general election and has been distributed to all 58  
26 California county elections officials, and may be accessed on the Secretary of State's website at  
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1 <http://elections.cdn.sos.ca.gov//statewide-elections/2016-primary/section-8-general-election->  
2 [calendar.pdf.](http://elections.cdn.sos.ca.gov//statewide-elections/2016-primary/section-8-general-election-)

3 8. I have personal knowledge of these facts and would competently testify to them if called  
4 as a witness to these proceedings.  
5

6 Executed under penalty of perjury that the foregoing is true and correct and that this  
7 declaration was executed on June 30, 2016, in Sacramento, California.

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10 JANA M. LEAN  
11 Chief of the Elections Division  
12 California Secretary of State  
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# EXHIBIT A

**SUMMARY OF JUNE 7, 2016,  
PRESIDENTIAL PRIMARY ELECTION CALENDAR**

*(Numbers in parentheses indicate the item number in the text of the calendar.)*

**Ballot Measures**

Legislative Measure Qualification Deadline (#19).....	Jan 28
Statewide Ballot Measures – Ballot Label and Title and Summary Deadline (#26).....	Feb 5
Statewide Ballot Measures – News Release Inviting Arguments (#27).....	Feb 8
Statewide Ballot Measures – Argument Submission Deadline (#30).....	Feb 9
Statewide Ballot Measures –	
Selection and Exchange of Arguments For or Against Measures (#31) .....	Feb 11
Statewide Ballot Measures – Analysis, “Yes” and “No” Statements,	
Bond Statement, and Text Deadline (#38).....	Feb 18
Statewide Ballot Measures –	
Rebuttal Argument and Summary Information Deadline (#40) .....	Feb 18
State Voter Information Guide Available for Public Examination (#43, #62).....	Feb 23-Mar 14
Last Day State Voter Information Guide Available for Public Examination and	
Copy Delivered to the State Printer (#62).....	Mar 14
Quarterly Statements by Ballot Measure Committees (#95) .....	Apr 30**

**Ballots**

Voting System Procedures (#7) .....	Jan 1*
Approved Ballot Card Vendors (#8).....	Jan 1*
Military or Overseas Voter Ballot Applications (#82) .....	Apr 8
Military or Overseas Voters Ballots <sup>1</sup> (#88) .....	Apr 23*
County Sample Ballot and Polling Place Notice Mailing (#94, #115).....	Apr 28-May 28*
Vote-by-Mail Ballot Application (#99, #120) .....	May 9-May 31
Vote-by-Mail Ballot Applications for	
Out-of-State Emergency Workers (#100, #135).....	May 9-Jun 7
Computer Processing of Vote-by-Mail Ballots (#107).....	May 23
Military or Overseas Voter Recalled to Service (#122, #128).....	Jun 1-Jun 6
Request for Vote-by-Mail Ballots – Late Conditions (#123, #134) .....	Jun 1-Jun 7
Manual Processing of Vote-by-Mail Ballots (#127).....	Jun 6
Hand Delivered or Faxed Vote-by-Mail Ballots	
Returned in Order to be Counted – Deadline (#130) .....	Jun 7
Mailed Vote-by-Mail Ballots – Last Day to be Counted (#140) .....	Jun 10
Vote-by-Mail Ballots – Unsigned Identification Envelope <sup>2</sup> (#142) .....	Jun 15
Provisional Ballots of Emergency Workers (#144) .....	Jun 17

**Campaign Finance**

**Candidate Intention Statement –**

State Senator and Member of the Assembly (#1) .....	Jan 1**-June 21
Verification of Independent Expenditures (#2) .....	Jan 1**
\$5,000 Report (Electronic Filers Only) (#5, #50).....	Jan 1**-Mar 8
Campaign Statement – Semiannual (#22).....	Feb 1
Statement of Economic Interests (#33, #59).....	Feb 15**-Mar 11

**Election Cycle Reports –**

24-hr. Payment Report (Slate Mailer Organizations) (#51, #125).....	Mar 9-Jun 6
---	-------------

**SUMMARY OF JUNE 7, 2016,  
PRESIDENTIAL PRIMARY ELECTION CALENDAR**

0163

*(Numbers in parentheses indicate the item number in the text of the calendar.)*

Election Cycle Reports – 24-hr. Contribution Report (#52, #131).....	Mar 9-Jun 7
Election Cycle Reports –	
24-hr. Independent Expenditure Report (#53, #132).....	Mar 9-Jun 7
Issue Advocacy Report (Electronic Filing Only) (#91, #124).....	Apr 23**-Jun 6
First Pre-Election Statement <sup>3</sup> (#92).....	Apr 28
Quarterly Statements by Ballot Measure Committees (#95).....	Apr 30**
24-hr. Statement of Organization –	
Recipient Committees and Slate Mailer Organizations (#104, #126).....	May 22**-Jun 6
Second Pre-Election Statement <sup>3</sup> (#113).....	May 26
Amended Candidate Intention Statement –	
State Senator and Member of the Assembly (#145).....	Jun 8 – Jun 21
Campaign Statement – Semiannual (#160).....	Jul 31**

**Candidates – Presidential**

Letter Requesting Information Sent to Central Committees –	
Green <sup>2</sup> , Libertarian, and Peace and Freedom Parties (#12).....	Jan 9*
Announcement of Selected Presidential Candidates –	
Democratic Party (#13, #77).....	Jan 9*-Mar 31**
Presidential Nomination Papers – Democratic Party (#21, #71).....	Jan 29-Mar 26**
Announcement of Selected Presidential Candidates – Republican,	
American Independent, Green <sup>2</sup> , Libertarian, and Peace and Freedom Parties (#28).....	Feb 8
Number of Delegates for National Conventions <sup>2</sup> (#29).....	Feb 8
Certification of Number of Delegates <sup>2</sup> – Republican, American Independent,	
Libertarian, and Peace and Freedom Parties (#39).....	Feb 18
Delegates –	
American Independent, Libertarian, and Peace and Freedom Parties (#45).....	Feb 24
Presidential Nomination Papers – Republican, American Independent, Green <sup>2</sup> ,	
Libertarian, and Peace and Freedom Parties (#46).....	Feb 24-Mar 25
Democratic Steering Committee Statement Deadline (#67).....	Mar 17
Presidential Nomination Papers – Unselected Candidates –	
Republican and Green <sup>2</sup> Parties (#68).....	Mar 25
Presidential Nomination Papers – American Independent,	
Libertarian, and Peace and Freedom Parties (#69).....	Mar 25
Presidential Nomination Papers – Unselected Candidates or	
Uncommitted Delegation – Democratic Party (#71).....	Mar 26**
County Filing Deadline for Presidential Nomination Papers – Republican, American	
Independent, Green <sup>2</sup> , Libertarian, and Peace and Freedom Parties (#74).....	Mar 30
County Filing Deadline for Presidential Nomination Papers –	
Democratic Party (#75).....	Mar 31**
Notification of Qualification for Placement on Ballot –	
Democratic Presidential Candidates (#76).....	Mar 31**
Announcement of Selected Presidential Candidates – Democratic Party (#77).....	Mar 31**
Withdrawal of Presidential Candidate – Democratic, Republican, American	
Independent, Green <sup>2</sup> , Libertarian, and Peace and Freedom Parties (#78).....	Mar 31**

**SUMMARY OF JUNE 7, 2016,  
PRESIDENTIAL PRIMARY ELECTION CALENDAR**

*(Numbers in parentheses indicate the item number in the text of the calendar.)*

Certified List of Candidates and Rotation List; Presidential Delegates <sup>2</sup> (#80)	Mar 31**
Presidential Candidate Statements on Secretary of State's Website – Deadline (#81)	Apr 1
Slate of Republican Delegate Candidates to Secretary of State (#97)	May 8**
Presidential Write-In Candidates Deadline <sup>2</sup> (#102)	May 17
Certified List of Write-In Candidates (#114)	May 27
Official Canvass – Beginning (#139, #150)	Jun 9-Jul 7
Semi-Official Canvass – Libertarian and Peace and Freedom Parties (#141)	Jun 10
Republican Presidential Write-In Candidate – List of Delegates (#143)	Jun 17
Republican Presidential Write-In Candidate – Failure to File List of Delegates (#146)	Jun 27
Statement of Results to Secretary of State – Presidential Delegates (#148)	Jul 5
Certified Delegate Order – Libertarian and Peace and Freedom Parties (#149)	Jul 5
Official Canvass Deadline (#150)	Jul 7
Republican Party Candidates Submit Alternate Delegates (#151)	Jul 7
Presidential Primary Results Compiled by the Secretary of State (#153)	Jul 9*
Presidential Write-In Candidate – List of Delegates – American Independent, Libertarian, and Peace and Freedom Parties (#154)	Jul 14
Delegate Certification – Libertarian and Peace and Freedom Parties (#156)	Jul 15
Presidential Write-In Candidate – Failure to File List of Delegates – American Independent, Libertarian, and Peace and Freedom Parties (#159)	Jul 24**

**Candidates – Voter-Nominated, Non-Presidential**

Candidate Intention Statement – State Senator and Member of the State Assembly (#1, #57, #145)	Jan 1**-Mar 11, Jun 21
Signatures In Lieu of Filing Fees (#3, #47)	Jan 1*-Feb 25
Candidate Statements in the State Voter Information Guide – United States Senator (#20, #37)	Jan 28-Feb 17
Statement of Economic Interests (#33, #59)	Feb 15*-Mar 11
Declaration of Candidacy and Nomination Papers (#34, #55)	Feb 15*-Mar 11
Candidate Statements in the County Sample Ballot – U.S. House of Representatives, State Senate, State Assembly (#35, #58)	Feb 15*-Mar 11
Nomination Documents Forwarded to the Secretary of State (#36, #63)	Feb 15*-Mar 16
Signatures In Lieu of Filing Fees – Determine Sufficiency (#48)	Mar 6**
Signatures In Lieu of Filing Fees – Supplemental Deadline (#56)	Mar 11
Nomination Period Extension (#60, #65)	Mar 12*-Mar 16
Nomination Period Extension – Death of a Candidate (#61, #70)	Mar 12*-Mar 25
Notice to Candidates (#72)	Mar 26*
Party Preference History Posting on Website (#73)	Mar 26*
Death of a Candidate – Name on Ballot (#79)	Mar 31**
Certified List of Candidates and Rotation List <sup>2</sup> (#80)	Mar 31**
Statement of Write-In Candidacy and Nomination Papers (#85, #109)	Apr 11- May 24
Certified List of Write-In Candidates (#114)	May 27



**SUMMARY OF JUNE 7, 2016,  
PRESIDENTIAL PRIMARY ELECTION CALENDAR**

*(Numbers in parentheses indicate the item number in the text of the calendar.)*

**Amended Candidate Intention Statement –**

State Senator and Member of the Assembly (#138, #145) ..... Jun 8-Jun 21  
Certificates of Nomination (#157) ..... Jul 18

**Canvass**

Notice of Early Tabulation (#96) ..... May 8\*  
Computer Processing of Vote-by-Mail Ballots (#107) ..... May 23  
Computer Program to Secretary of State (#121) ..... May 31  
Manual Processing of Vote-by-Mail Ballots (#127) ..... Jun 6  
Presidential Primary Election Day (#129) ..... Jun 7  
Semifinal Official Canvass (#137) ..... Jun 7  
Official Canvass (#139, #150) ..... Jun 9-Jul 7  
Statement of Results to Secretary of State (#152) ..... Jul 8  
Statement of the Vote (#155) ..... Jul 15  
Supplement to the Statement of the Vote (#161) ..... Nov 12\*

**County Central Committees**

**Declaration of Candidacy and Nomination Papers –**

Member of County Central Committee (#4) ..... Jan 1\*-Mar 11  
Letter Requesting Information Sent to Central Committees –  
Green<sup>2</sup>, Libertarian, and Peace and Freedom Parties (#12) ..... Jan 9\*  
Notice of County Central Committee Elections –  
Libertarian and Peace and Freedom Parties (#17) ..... Jan 24\*\*  
County Central Committee – American Independent Party (#24) ..... Feb 3  
County Central Committees –  
Libertarian and Peace and Freedom Parties (#32) ..... Feb 13\*\*  
Green Party County Council Certification<sup>2</sup> (#158) ..... Jul 22

**Filing Fees – Voter-Nominated, Non-Presidential Candidates**

Signatures In Lieu of Filing Fees (#3, #47) ..... Jan 1\*-Feb 25  
Declaration of Candidacy and Nomination Papers (#34, #55) ..... Feb 15\*-Mar 11  
Signatures In Lieu of Filing Fees – Determine Sufficiency (#48) ..... Mar 6\*\*  
Signatures In Lieu of Filing Fees – Supplemental Deadline (#56) ..... Mar 11  
Nomination Period Extension (#60, #65) ..... Mar 12\*-Mar 16  
Nomination Period Extension – Death of a Candidate (#61, #70) ..... Mar 12\*-Mar 25

**Military or Overseas Voters**

Military or Overseas Voter Ballot Applications (#82) ..... Apr 8  
Military or Overseas Voter Ballots<sup>1</sup> (#88) ..... Apr 23\*  
Military or Overseas Voter Recalled to Service (#122, #128) ..... Jun 1-Jun 6  
Hand Delivered or Faxed Vote-by-Mail Ballots  
Returned in Order to be Counted – Deadline (#130) ..... Jun 7  
Military or Overseas Voters – Late Conditions (#133) ..... Jun 7

**SUMMARY OF JUNE 7, 2016,  
PRESIDENTIAL PRIMARY ELECTION CALENDAR**

*(Numbers in parentheses indicate the item number in the text of the calendar.)*

**Notification and Publications**

Notice of Offices in the Presidential Primary Election (#6).....	Jan 1*
Announcement of Selected Presidential Candidates –	
Democratic Party (#13, #77).....	Jan 9*-Mar 31**
Governor's Proclamation – Issuance (#14).....	Jan 11
No Party Preference Voter Participation Notice – Presidential Candidates (#15).....	Jan 24**
Notice of Parties Qualified to Participate in Presidential Primary (#23).....	Feb 3
Announcement of Selected Presidential Candidates – Republican,	
American Independent, Green <sup>2</sup> , Libertarian, and Peace and Freedom Parties (#28) .....	Feb 8
Report of Registration – 154-Day Statewide Report Published (#44).....	Feb 24
Randomized Alphabet Drawing – Notice (#49).....	Mar 7
Randomized Alphabet Drawing (#66).....	Mar 17
Notice to Candidates – All Voter-Nominated, Non-Presidential Candidates (#72).....	Mar 26*
Party Preference History Posting on Website –	
All Voter-Nominated, Non-Presidential Candidates (#73).....	Mar 26*
Announcement of Selected Presidential Candidates – Democratic Party (#77).....	Mar 31**
Certified List of Candidates and Rotation List; Presidential Delegates <sup>2</sup> (#80) .....	Mar 31**
Precinct Board Members and Polling Places (#98) .....	May 9
Report of Registration – 60-Day Statewide Report Published (#103).....	May 18
Bilingual Precinct Board Members (#110).....	May 24
Publication of Tally Center Location (#116).....	May 28*
Report of Registration – 15-Day Statewide Report Published (#147).....	Jun 30
Statement of the Vote (#155).....	Jul 15
Certificates of Nomination – All Voter-Nominated, Non-Presidential Candidates (#157).....	Jul 18
Supplement to the Statement of the Vote (#161).....	Nov 12*

**Political Party Qualification and Information**

**Last Day to Count Registrations**

Toward the Qualification of a New Political Party (#9).....	Jan 5
No Party Preference Voter Participation Notice – Presidential Candidates (#15).....	Jan 24**
Political Bodies Attempting to Qualify (#16).....	Jan 24**
Notice of Parties Qualified to Participate in Presidential Primary (#23).....	Feb 3
Newly Qualified Party Procedures for Presidential Primary (#25) .....	Feb 3
Political Party Statement of Purpose Deadline (#41) .....	Feb 18
Newly Qualified Political Party Activities (#42).....	Feb 23
Political Party Endorsements for Voter-Nominated Office Deadline (#64).....	Mar 16

**Voter Information Guide**

Legislative Measure Qualification Deadline (#19).....	Jan 28
Statewide Ballot Measures – Ballot Label and Title and Summary Deadline (#26).....	Feb 5
Statewide Ballot Measures – News Release Inviting Arguments (#27).....	Feb 8
Statewide Ballot Measures – Argument Submission Deadline (#30).....	Feb 9
Statewide Ballot Measures –	
Selection and Exchange of Arguments For or Against Measures (#31).....	Feb 11

**SUMMARY OF JUNE 7, 2016,  
PRESIDENTIAL PRIMARY ELECTION CALENDAR**

*(Numbers in parentheses indicate the item number in the text of the calendar.)*

<b>Candidate Statements in the State Voter Information Guide Deadline --</b>	
United States Senator (#37) .....	Feb 17
<b>Statewide Ballot Measures – Analysis, “Yes” and “No” Statements, Bond Statement, and Text Deadline (#38).....</b>	
	Feb 18
<b>Statewide Ballot Measures--</b>	
Rebuttal Argument and Summary Information Deadline (#40) .....	Feb 18
Political Party Statement of Purpose Deadline (#41) .....	Feb 18
State Voter Information Guide Available for Public Examination (#43, #62).....	Feb 23-Mar 14
<b>Last Day State Voter Information Guide Available for Public Examination and Copy Delivered to the State Printer (#62).....</b>	
	Mar 14
<b>Voter Registration Files Update for State Voter Information Guide Mailing (#83).....</b>	Apr 8
<b>Voter Registration Files to the Secretary of State for State Voter Information Guide Mailing (#86) .....</b>	Apr 18
<b>State Voter Information Guides Furnished to Counties (#89).....</b>	Apr 23*
<b>State Voter Information Guides to</b>	
<b>State and Local Officials and Public Institutions (#90) .....</b>	Apr 23*
<b>State Voter Information Guide Mailing (#93, #101).....</b>	Apr 28-May 17
<b>State Voter Information Guide Supplemental Mailing by County Deadline (#117).....</b>	May 28*

**Voter Registration**

<b>Report of Registration – 154-Day County Report (#10, #18) .....</b>	Jan 5-Jan 24**
<b>Pre-Election Residency Confirmation Procedure (#11, #54) .....</b>	Jan 8-Mar 9
<b>Report of Registration – 154-Day Statewide Report Published (#44).....</b>	Feb 24
<b>Military or Overseas Voter Ballot Applications (#82) .....</b>	Apr 8
<b>Report of Registration – 60-Day County Report (#84, #87) .....</b>	Apr 8-Apr 18
<b>Report of Registration – 60-Day Statewide Report Published (#103).....</b>	May 18
<b>Voter Registration Deadline for the Presidential Primary Election (#105) .....</b>	May 23
<b>Notice of Change of Address Within County (#106) .....</b>	May 23
<b>Report of Registration – 15-Day County Report (#108, #119) .....</b>	May 23-May 31
<b>New Resident Registration Period (#111, #118) .....</b>	May 24-May 31
<b>New Citizen Registration Period (#112, #136).....</b>	May 24-Jun 7
<b>Military or Overseas Voter Recalled to Service (#122, #128).....</b>	Jun 1-Jun 6
<b>Report of Registration – 15-Day Statewide Report Published (#147).....</b>	Jun 30

\*Date falls on a weekend or state holiday; it does not move forward to the next business day.

\*\*Date falls on a weekend or state holiday; it moves forward to the next business day.

<sup>1</sup> Elections Code section 3114 and the federal MOVE Act require that ballots be sent to military and overseas voters not later than 45 days prior to an election. This E-45 date must be adhered to and does not move forward even though the date falls on a Saturday.

**SUMMARY OF JUNE 7, 2016,  
PRESIDENTIAL PRIMARY ELECTION CALENDAR**

<sup>2</sup> Assembly Bill (AB) 477 (Mullin), Chapter 726, Statutes of 2015, adds provisions to the Elections Code for Green Party presidential and county council elections and allows a voter to submit an "unsigned ballot statement" to county elections officials if the voter's vote-by-mail ballot identification envelope was unsigned. AB 477 will become effective January 1, 2016.

<sup>3</sup> Assembly Bill (AB) 594 (Gordon), Chapter 364, Statutes of 2015, makes changes to the Political Reform Act of 1973. AB 594 will become effective January 1, 2016.

## June 7, 2016, Presidential Primary Election Calendar

1/1/16\*\*  
to  
6/21/16  
(E-158 to E+14)

### 1. CANDIDATE INTENTION STATEMENT — STATE SENATOR AND MEMBER OF THE ASSEMBLY

Prior to the solicitation or receipt of any contribution or loan for a specific office, the individual must file a statement, signed under penalty of perjury, of intention to be a candidate for the specific office. The Form 501 is also used by candidates to accept or reject voluntary spending limits specified by the Fair Political Practices Commission. Candidates are not required to file a Candidate Intention Statement (Form 501) for the same office in the connected general election after filing a Form 501 for the primary election.

Gov. Code  
§§ 85200, 85400  
85401, 85600, 85601

Between the date of filing an initial Form 501 for an election and the deadline for filing nomination papers for that election, March 11, 2016 (E-88), the statement of acceptance or rejection of the voluntary expenditure ceiling may be amended no more than two times provided the limit has not been exceeded. If the voluntary expenditure ceiling is rejected in the primary, but not exceeded during that election, the Form 501 may be amended to accept the expenditure ceiling for the general. The amended Form 501 must be filed within 14 days following the primary election.

State Senator and Member of the State Assembly candidates who wish to purchase space for a 250-word candidate statement in the voter information portion of the official sample ballot(s) of the county or counties in their jurisdiction must accept the voluntary expenditure limits by March 11, 2016 (E-88).

**NOTE:** For purposes of this calendar entry the E-date shall begin at E-158.

1/1/16\*\*  
to  
3/11/16  
(E-158 to E-88)

1/1/16\*\*  
(E-158)

### 2. VERIFICATION OF INDEPENDENT EXPENDITURES

The Verification of Independent Expenditures (Form 462) is used to identify an individual responsible for ensuring that the campaign committee's independent expenditures were not coordinated with the listed candidate or measure committee (or the opponent) and that the committee will report all contributions and reimbursements as required by law. An independent expenditure is not subject to state or local contribution limits. This form must be emailed to the Fair Political Practices Commission within 10 days of an independent expenditure of \$1,000 or more.

Gov. Code § 84213

**NOTE:** For purposes of this calendar the E-date shall begin at E-158.

1/1/16\*  
to  
2/25/16  
(E-158 to E-103)

### 3. SIGNATURES IN LIEU OF FILING FEES — ALL VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATES

Period in which candidates for United States Senator, United States Representative in Congress, State Senator, and Member of the State Assembly may obtain forms from county elections officials for circulating petitions to secure signatures in lieu of all or part of the filing fee. Signatures may also be applied to the nomination signature requirements for the office.

§§ 8020(b), 8061  
8105, 8106(b)(3)

## June 7, 2016, Presidential Primary Election Calendar

- |   |  |   |
|---|--|---|
| <p>1/1/16*<br/>to<br/>3/1/16<br/>(E-158 to E-88)</p>    | <p>4. <b>DECLARATION OF CANDIDACY AND NOMINATION PAPERS — MEMBER OF COUNTY CENTRAL COMMITTEE</b></p> | <p>Period in which all candidates for Member of the County Central Committee must file their declarations of candidacy for office and their ballot designation worksheets and circulate their nomination papers and deliver them to the county elections official for filing. All nomination documents must be left with the county elections official for filing with the Secretary of State.</p> <p style="text-align: right;">§§ 333, 8020, 8040<br/>8041, 8062-8064<br/>8100, 8104, 13107.3</p>   |
| <p>1/1/16**<br/>to<br/>3/8/16<br/>(E-158 to E-91)</p>   | <p>5. <b>\$5,000 REPORT (ELECTRONIC FILERS ONLY)</b></p>   | <p>Candidates for state office and their controlled committees and committees primarily formed to support or oppose state measures must file a disclosure report within 10 business days if \$5,000 or more is received from a single source outside the 90-day election cycle.</p> <p>Recipient committees must file a disclosure report within 10 business days of making a contribution of \$5,000 or more or an independent expenditure of \$5,000 or more to support or oppose the qualification or passage of a single state ballot measure.</p> <p><b>NOTE:</b> The filing period for this report begins the day following the last general election; however, for purposes of this calendar the E-date shall begin at E-158.</p> <p style="text-align: right;">Gov. Code<br/>§§ 84204.5, 85309(c)<br/>&amp; (d)</p> |
| <p>1/1/16*<br/>(E-158)</p>                              | <p>6. <b>NOTICE OF OFFICES IN THE PRESIDENTIAL PRIMARY ELECTION</b></p>                              | <p>On or before this date, the Secretary of State to prepare and send to each county elections official a notice designating all the offices, except for county officers and judges, for which candidates are to be nominated at the primary election.</p> <p style="text-align: right;">§ 12103</p>  |
| <p>1/1/16*<br/>(E-158)</p>                              | <p>7. <b>VOTING SYSTEM PROCEDURES</b></p>  | <p>On or before this date, the Secretary of State shall review and, if necessary, amend, administrative procedures for use with each of the voting systems pursuant to Division 19 of the Elections Code.</p> <p style="text-align: right;">§ 15002</p>   |
| <p>1/1/16*<br/>(E-158)</p>                              | <p>8. <b>APPROVED BALLOT CARD VENDORS</b></p>  | <p>On or before this date, the Secretary of State will publish the list of approved manufacturers and finishers of ballots for use in California elections.</p> <p style="text-align: right;">Cal. Code Reg.<br/>tit. 2, § 20226</p>  |
| <p>1/5/16<br/>(E-154)</p>                               | <p>9. <b>LAST DAY TO COUNT REGISTRATIONS TOWARD THE QUALIFICATION OF A NEW POLITICAL PARTY</b></p>   | <p>Last day any person may register or re-register to vote to declare a preference for a political body in order for that body to qualify to participate in the primary election.</p> <p style="text-align: right;">§§ 2187(d)(1)<br/>5100(b)</p>   |
| <p>1/5/16<br/>to<br/>1/24/16**<br/>(E-154 to E-135)</p> | <p>10. <b>REPORT OF REGISTRATION — 154-DAY COUNTY REPORT</b></p>                                     | <p>Period in which county elections officials shall send to the Secretary of State a summary statement showing the number of registered voters in their counties, by political party preference and in each political subdivision thereof. This statement is based on the number of persons registered as of January 5, 2016 (E-154).</p> <p style="text-align: right;">§ 2187(a), (c)<br/>&amp; (d)(1)</p>   |

## June 7, 2016, Presidential Primary Election Calendar

- 1/8/16  
to  
3/9/16  
(E-151 to E-90)
- 11. PRE-ELECTION RESIDENCY CONFIRMATION PROCEDURE**  
January 8, 2016 (E-151), is the suggested day for county elections officials to begin conducting a pre-election residency confirmation procedure as provided in Section 2220. This procedure shall be completed by March 9, 2016 (E-90).  
County elections officials shall not be required to mail a residency confirmation postcard to any voter who has voted at an election held within the last six months preceding the start of the confirmation procedure.
- §§ 2220-2227
- 1/9/16\*  
(E-150)
- 12. LETTER REQUESTING INFORMATION SENT TO CENTRAL COMMITTEES — GREEN, LIBERTARIAN, AND PEACE AND FREEDOM PARTIES**  
On or before this date, the Secretary of State to send a letter by first-class mail to the chairpersons of record of the Libertarian and Peace and Freedom parties' state and county central committees and to the liaison for the Green Party requesting information he may consider in selecting presidential candidates for placement on the primary election ballot.  
**NOTE:** Pursuant to Section 5006, a qualified political party that does not have procedures in statute applicable to its presidential primary shall designate for its use the statutory provisions of any other political party.
- §§ 6721, 6851.5
- 1/9/16\*  
to  
3/31/16\*\*  
(E-150 to E-68)
- 13. ANNOUNCEMENT OF SELECTED PRESIDENTIAL CANDIDATES — DEMOCRATIC PARTY**  
Period in which the Secretary of State will announce and publicize the list of names of those persons whom he intends to place on the primary election ballot for the Democratic Party. Following this announcement, the Secretary of State may add candidates, but he may not delete any candidate whose name appears on the announced list. Democratic candidates may withdraw their names in writing at any time through March 31, 2016\*\* (E-68).
- §§ 6041-6043
- 1/11/16  
(E-148)
- 14. GOVERNOR'S PROCLAMATION — ISSUANCE**  
On or before this date, the Governor shall issue a proclamation calling the primary election and shall state the time of the election and the offices to be filled and transmit a copy of the proclamation to the board of supervisors of each county. The Secretary of State will send an informational copy of the proclamation to each county elections official.
- § 1200c
- 1/24/16\*\*  
(E-135)
- 15. NO PARTY PREFERENCE VOTER PARTICIPATION NOTICE — PRESIDENTIAL CANDIDATES**  
Last day for a political party to notify the Secretary of State that it has adopted a rule that authorizes a person who has no party preference to vote the ballot of that political party at the primary election.
- § 13102(c)
- 1/24/16\*\*  
(E-135)
- 16. POLITICAL BODIES ATTEMPTING TO QUALIFY**  
Last day for political bodies to deliver petitions to county elections officials in order to qualify as a political party for the primary election. Additionally, the Secretary of State to determine, based on the 154-Day Report of Registration, whether a new political party has qualified for the primary election by registration.
- §§ 2187 (d)(1)  
5100(b) & (c)

## June 7, 2016, Presidential Primary Election Calendar

- |  |  |   |
|--|--|---|
| 1/24/16**<br>(E-135)   | <b>17. NOTICE OF COUNTY CENTRAL COMMITTEE ELECTIONS — LIBERTARIAN AND PEACE AND FREEDOM PARTIES</b><br>Last day for the state chairperson of each party to notify the Secretary of State whether or not a county central committee election will be held.  | § 777C  |
| 1/24/16**<br>(E-135)   | <b>18. REPORT OF REGISTRATION — 154-DAY COUNTY REPORT SUMMARIES DUE</b><br>Last day for county elections officials to send to the Secretary of State a summary statement showing the number of registered voters in their counties as of January 5, 2016 (E-154).  | § 2187(a), (c) & (d)(1)                           |
| 1/28/16<br>(E-131)   | <b>19. LEGISLATIVE MEASURE QUALIFICATION DEADLINE</b><br>Last day for the Legislature to adopt a constitutional amendment, bond measure, or other legislative measure in order for the proposed measure to appear on the primary election ballot.  | § 904C  |
| 1/28/16<br>to<br>2/17/16<br>(E-131 to E-111)<br>[Date designated by<br>Secretary of State] | <b>20. CANDIDATE STATEMENTS IN THE STATE VOTER INFORMATION GUIDE — UNITED STATES SENATOR</b><br>Period in which United States Senator candidates may purchase space for a 250-word candidate statement in the state Voter Information Guide. Statements are to be filed with the Secretary of State.   | § 9084(i)   |
| 1/29/16<br>to<br>3/26/16**<br>(E-130 to E-73)  | <b>21. PRESIDENTIAL NOMINATION PAPERS — DEMOCRATIC PARTY</b><br>Period in which the steering committee of each unselected presidential candidate or uncommitted delegation may obtain signatures to nomination papers. Papers shall be left for examination with the county elections official of the county in which they are circulated.<br><br>The county elections official has five days from the receipt to verify and certify nomination papers and to forward them to the Secretary of State, who shall file them. | §§ 6061, 6082, 6101<br>6108<br>6122<br><br>§ 6144 |
| 2/1/16<br>(E-127)  | <b>22. CAMPAIGN STATEMENT — SEMIANNUAL</b><br>Last day to file semiannual campaign statements, if required, by all candidates, organizations, committees, and slate mailers.   | Gov. Code<br>§§ 84200, 84218                      |
| 2/3/16<br>(E-125)  | <b>23. NOTICE OF PARTIES QUALIFIED TO PARTICIPATE IN PRESIDENTIAL PRIMARY</b><br>Last day for the Secretary of State to prepare and send to each county elections official a notice designating the names of the political parties qualified to participate in the primary election.   | §§ 5100(b) & (c)<br>12103                         |
| 2/3/16<br>(E-125)  | <b>24. COUNTY CENTRAL COMMITTEE — AMERICAN INDEPENDENT PARTY</b><br>Last day for the Secretary of State to compute the number of members of the central committees to be elected in each county and to mail certificates to that effect to each county elections official and to the chairperson of the American Independent Party State Central Committee.  | § 7671  |



## June 7, 2016, Presidential Primary Election Calendar

- |   |   |   |
|---|---|---|
| 2/3/16<br>(E-125)   | <p><b>25. NEWLY QUALIFIED PARTY PROCEDURES FOR PRESIDENTIAL PRIMARY</b></p> <p>Last day for temporary officers of a newly qualified political party to notify the Secretary of State of its procedures applicable to its presidential primary.</p>  | § 5006  |
| 2/5/16<br>(E-123)<br>[Date designated by<br>Secretary of State] | <p><b>26. STATEWIDE BALLOT MEASURES — BALLOT LABEL AND TITLE AND SUMMARY DEADLINE</b></p> <p>The Attorney General must provide, no later than this date, all official ballot labels and titles and summaries for the statewide ballot measures that have qualified for the primary election so that the Secretary of State has sufficient time to translate the ballot labels and titles and summaries into any required languages prior to public display of the state Voter Information Guide.</p>  | §§ 9050, 9051<br>9054, 13247  |
| 2/8/16<br>(E-120)   | <p><b>27. STATEWIDE BALLOT MEASURES — NEWS RELEASE INVITING ARGUMENTS</b></p> <p>On or before this date, the Secretary of State will issue a general news release requesting voters to submit an argument in each case where either the argument for or against any ballot measure has not been prepared and filed.</p>   | §§ 9060-9063  |
| 2/8/16<br>(E-120)   | <p><b>28. ANNOUNCEMENT OF SELECTED PRESIDENTIAL CANDIDATES — REPUBLICAN, AMERICAN INDEPENDENT, GREEN, LIBERTARIAN, AND PEACE AND FREEDOM PARTIES</b></p> <p>On or before this date, the Secretary of State will announce and publicize the list of names of those persons whom he intends to place on the presidential primary election ballot for the Republican, American Independent, Green, Libertarian, and Peace and Freedom parties. Following the announcement, he may add candidates to, but may not delete any candidate from, the list. Republican, American Independent, Green, Libertarian, and Peace and Freedom candidates may withdraw their names in writing at any time through March 31, 2016** (E-68).</p> <p>The Secretary of State shall mail copies of the lists of selected Green, Libertarian, and Peace and Freedom parties' presidential candidates, and subsequent additions thereto, to the candidates. The lists shall also be mailed to the liaison for the Green Party and to the chairpersons of the Libertarian and Peace and Freedom parties' state and county central committees, respectively.</p> | §§ 6340-6342<br>6520-6522<br>6720-6724<br>6852, 6853<br><br>§§ 6722, 6723, 6852<br>6852.5 |
| 2/8/16<br>(E-120)   | <p><b>29. NUMBER OF DELEGATES FOR NATIONAL CONVENTIONS</b></p> <p>By this date, the chairperson of each qualified party's state central committee (other than the Green Party) shall notify the Secretary of State of the number of delegates to represent California at its next national convention. The Libertarian and Peace and Freedom party chairs must state the name of the national party with which the state party has affiliated. The Democratic Party shall state the number of delegates and alternates to be selected from each congressional district.</p>   | §§ 6020, 6023, 6320<br>6321, 6540, 6541<br>6740, 6741, 6744<br>6745, 6763                 |

If any party (other than the Green Party) fails to notify the Secretary of State of the number of delegates, the Secretary of State shall ascertain the number of delegates. In the case of the Democratic, Republican, and American Independent parties, the Secretary of State shall ascertain the number from the call for the national convention issued by the national committee of that party. In the case of the Libertarian and Peace and Freedom parties, the Secretary of State shall ascertain the party's national affiliation and the number from the chairperson or any other officer of record of the party state central committee or from the national party with which the party was most recently affiliated.

§§ 6024, 6322  
6542, 6742

Green Party delegates will be chosen after the Presidential Primary Election, in accordance with its by laws and rules.

§§ 6861.5(c)  
6863, 6863.5

2/9/16

(E-119)

**30. STATEWIDE BALLOT MEASURES — ARGUMENT SUBMISSION DEADLINE**

[Date designated by Secretary of State]

Last day for the submittal to the Secretary of State of arguments for or against each qualified statewide ballot measure. Arguments shall not exceed 500 words. Once submitted, no argument may be changed or amended.

§§ 9041-9044, 9064  
9065, 9068

2/11/16

(E-117)

**31. STATEWIDE BALLOT MEASURES — SELECTION AND EXCHANGE OF ARGUMENTS FOR OR AGAINST MEASURES**

[Date designated by Secretary of State]

On or before this date, the Secretary of State will select arguments for inclusion in the state Voter Information Guide where more than one has been submitted in favor of or against the same measure. Following the selection, the Secretary of State will exchange arguments with opposing authors and request rebuttal arguments and summary information, which shall be submitted by February 18, 2016 (E-110).

§§ 9067, 9068

2/13/16\*\*

(E-115)

**32. COUNTY CENTRAL COMMITTEES — LIBERTARIAN AND PEACE AND FREEDOM PARTIES**

Last day for county elections officials to compute the number of members of the central committees to be elected in each supervisorial or Assembly district if the election of members is to be by supervisorial or Assembly district.

§ 7771

2/15/16\*\*

to

3/11/16

(E-113 to E-88)

**33. STATEMENT OF ECONOMIC INTERESTS**

Period in which specified candidates for state office in an election shall file a Statement of Economic Interests (Form 700) disclosing their investments, interests in real property, and any income received during the immediately preceding 12 months. This statement is not required if the candidate has filed such statements within the past 60 days for the same jurisdiction.

Gov. Code  
§§ 87200-  
87203, 87500

**NOTE:** The deadlines for filing a Form 700 by certain officeholders may be earlier. Call the Fair Political Practices Commission (FPPC) for deadline information and filing locations at (916) 322-5660.

**June 7, 2016, Presidential Primary Election Calendar**

- 2/15/16\*  
 to  
 3/11/16  
 (E-113 to E-88)

**34. DECLARATION OF CANDIDACY AND NOMINATION PAPERS — ALL VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATES**  
 Period in which all candidates for United States Senator, United States Representative in Congress, State Senator, and Member of the State Assembly must file a declaration of candidacy for office and ballot designation worksheet, and circulate nomination papers and deliver them to the county elections official for filing. All candidates must pay the nonrefundable filing fees or present petitions in lieu of signatures at the time nomination papers are issued by the county elections official. The number of valid signatures in lieu of the filing fee any candidate obtains may be subtracted from the number required for his or her nomination papers. A candidate shall not be required to execute a nomination paper if the number of signatures in lieu of the filing fee that meets the nomination requirement on the in-lieu petitions equals or exceeds the minimum number required by Section 8062. All nomination documents for the above-listed candidates must be left with the county elections official for filing with the Secretary of State.

§§ 333, 8020, 8040  
 8041, 8061-8064  
 8100, 8105, 8106  
 13107.3
- 2/15/16\*  
 to  
 3/11/16  
 (E-113 to E-88)

**35. CANDIDATE STATEMENTS IN THE COUNTY SAMPLE BALLOT**  
 Period in which candidates for United States Representative in Congress, State Senator, and Member of the State Assembly may purchase space for a 250-word candidate statement in the voter information portion of the sample ballot(s) of the county or counties in their jurisdiction. Candidates for State Senator and Member of the State Assembly may purchase space for a candidate statement only if they have agreed to voluntary expenditure limits on their Candidate Intention Statement (Form 501).

Gov. Code  
 § 85601(c)  
 § 13307.5
- 2/15/16\*  
 to  
 3/16/16  
 (E-113 to E-83)

**36. NOMINATION DOCUMENTS FORWARDED TO THE SECRETARY OF STATE**  
 Period in which, and within five days of receipt of nomination documents, county elections officials shall deliver to the Secretary of State candidates' nomination documents for United States Senator, United States Representative in Congress, State Senator, and Member of the State Assembly, together with a statement showing the number of valid signatures on the nomination document from all candidates.

§§ 8070, 8082
- 2/17/16  
 (E-111)  
 [Date designated by  
 Secretary of State]

**37. CANDIDATE STATEMENTS IN THE STATE VOTER INFORMATION GUIDE DEADLINE — UNITED STATES SENATOR**  
 Last day United States Senator candidates may purchase space for a 250-word candidate statement in the state Voter Information Guide and provide to the Secretary of State.

§ 9084(i)

- |  |   |   |
|--|---|---|
| 2/18/16<br>(E-110)<br>[Date designated by<br>Secretary of State] | <b>38. STATEWIDE BALLOT MEASURES — ANALYSIS, "YES" AND "NO" STATEMENTS, BOND STATEMENT, AND TEXT DEADLINE</b><br>The Legislative Analyst and Legislative Counsel must provide, no later than this date, all official analyses, "Yes" and "No" statements, and texts of the measures that have qualified for the primary election ballot, as well as a statement of bond debt, if necessary, so that the Secretary of State has sufficient time to prepare copy for public display and to translate the state Voter Information Guide into any required languages.   | §§ 9085, 9087<br>9088, 9091                             |
| 2/18/16<br>(E-110)   | <b>39. CERTIFICATION OF NUMBER OF DELEGATES — REPUBLICAN, AMERICAN INDEPENDENT, LIBERTARIAN, AND PEACE AND FREEDOM PARTIES</b><br>On or before this date, the Secretary of State shall certify to county elections officials the number of delegates to be elected at the primary election for all parties except the Democratic and Green parties. For the Libertarian and Peace and Freedom parties, the certificate will include the number of delegates to represent the party at their respective national conventions; the name, address, and telephone number of the national party with which the state party is presently affiliated; and the number of delegates to be selected from each territory by each committee proposing a group of national convention delegates. | §§ 6323, 6543<br>6743-6745<br>6861.5(c), 6863<br>6863.5 |
| 2/18/16<br>(E-110)<br>[Date designated by<br>Secretary of State] | <b>40. STATEWIDE BALLOT MEASURES — REBUTTAL ARGUMENT AND SUMMARY INFORMATION DEADLINE</b><br>Last day for selected argument authors to submit rebuttal arguments and summary information for or against ballot measures qualified for the primary election ballot. Rebuttal arguments shall not exceed 250 words, and summary information shall not exceed 50 words.  | §§ 9069<br>9084(c) & (e)                                |
| 2/18/16<br>(E-110)<br>[Date designated by<br>Secretary of State] | <b>41. POLITICAL PARTY STATEMENT OF PURPOSE DEADLINE</b><br>Last day for political parties to submit statements of purpose, not to exceed 200 words, to the Secretary of State for inclusion in the state Voter Information Guide, if space allows.   | § 9084(e)   |
| 2/23/16<br>(E-105)   | <b>42. NEWLY QUALIFIED POLITICAL PARTY ACTIVITIES</b><br>Last day temporary officers of a newly qualified political party shall notify the Secretary of State of their operating procedures. If the newly qualified political party has not adopted its own detailed statutory operating procedures, they shall adopt the statutory provisions of any other qualified political party that has statutory provisions for its party operations.   | § 5005  |
| 2/23/16<br>to<br>3/14/16<br>(E-105 to E-85)                      | <b>43. STATE VOTER INFORMATION GUIDE AVAILABLE FOR PUBLIC EXAMINATION</b><br>Period in which the state Voter Information Guide for the primary election will be available for public examination and in which any elector may seek a writ of mandate to amend or delete any portion thereof prior to its printing.  | Gov. Code § 88006<br>§§ 9054<br>9092, 13282             |

2/24/16  
 (E-104)

**44. REPORT OF REGISTRATION — 154-DAY STATEWIDE REPORT PUBLISHED**

On or before this date, the Secretary of State will release a statewide report showing the number of registered voters, by political party preference, in the state, each county, and each political subdivision thereof. This report is based on the summary statements sent by each county elections official by January 24, 2016\*\*(E-135).

§ 2187(b) & (d)(1)

2/24/16  
 (E-104)

**45. DELEGATES — AMERICAN INDEPENDENT, LIBERTARIAN, AND PEACE AND FREEDOM PARTIES**

Last day for a committee proposing the nomination of a group of candidates for delegate to file a statement with the Secretary of State. For the American Independent Party, the statement must contain the name of the committee and the names of its officers. For the Libertarian and Peace and Freedom parties, the statement must contain the name of the committee and the names, residence addresses, and telephone numbers of at least five of its members, and its officers.

§§ 6560-6564  
 6760-6764  
 6766, 6767

Each group of candidates for delegate must obtain the endorsement of the candidate for presidential nominee for whom the members of the group have filed a preference. The endorsement of the candidate for presidential nominee must be on file with the Secretary of State before the circulation of any nomination papers by a group of candidates pledged to the support of his or her candidacy as presidential nominee.

§§ 6565-6567  
 6765

2/24/16  
 to  
 3/25/16  
 (E-104 to E-74)

**46. PRESIDENTIAL NOMINATION PAPERS — REPUBLICAN, AMERICAN INDEPENDENT, GREEN, LIBERTARIAN, AND PEACE AND FREEDOM PARTIES**

Period in which circulators may obtain signatures to the nomination papers and file them for examination with the county elections official for unselected presidential preference candidates for American Independent, Green, Libertarian, Peace and Freedom, and Republican parties; and groups of delegates for selected and unselected candidates and uncommitted delegations for American Independent, Libertarian, and Peace and Freedom parties.

§§ 6343, 6360- 6365  
 6382, 6568, 6580  
 6587, 6591, 6769  
 6791, 6854.5

The county elections official has five days from receipt to verify and certify nomination papers and to forward them to the Secretary of State, who shall file them.

§§ 6404, 6597  
 6796, 6859

## June 7, 2016, Presidential Primary Election Calendar

- 2/25/16  
(E-103)
47. **SIGNATURES IN LIEU OF FILING FEES DEADLINE — ALL VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATES**  
 Last day for candidates for United States Senator, United States Representative in Congress, State Senator, and Member of the State Assembly to turn in signatures in lieu of filing fee petitions to the county elections official of the county in which the petition signers reside and are registered to vote. Upon receipt of the required number of in-lieu signatures, or of a sufficient combination of such signatures and the prorated filing fee, the county elections official shall issue the nomination papers provisionally. Within 10 days after receipt of a petition, the county elections official shall notify the candidate of any deficiency. The candidate shall then cover the deficiency either by submitting supplemental signatures or by paying a prorated portion of the filing fee no later than March 11, 2016 (E-88). Any candidate who submits a number of valid in-lieu signatures that meets the nomination signatures requirement and equals or exceeds the minimum number required by Section 8062 for his or her nomination papers shall not be required to file the nomination papers. §§ 8020(b), 8061 8105, 8106(b)(3)
- 3/6/16\*\*  
(E-93)
48. **SIGNATURES IN LIEU OF FILING FEES — DETERMINE SUFFICIENCY — ALL VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATES**  
 Last day for the county elections official to determine the sufficiency of the in-lieu signatures submitted by candidates for United States Senator, United States Representative in Congress, State Senator, and Member of the Assembly. Within 10 days after receipt of a petition, the county elections official shall notify the candidate of any deficiency. No later than March 11, 2016 (E-88), the candidates notified shall either submit supplemental signatures or pay a prorated fee to cover the deficiency. §§ 8061, 8106(b)(3)
- 3/7/16  
(E-92)
49. **RANDOMIZED ALPHABET DRAWING — NOTICE**  
 Last day for the Secretary of State to notify the news media and other interested parties of the place of the randomized alphabet drawing to be held at 11:00 a.m. on March 17, 2016 (E-82). § 13112(b)(1)(B) & (c)
- 3/8/16  
(E-91)
50. **\$5,000 REPORT (ELECTRONIC FILERS ONLY)**  
 Last day for candidates for state office and their controlled committees and committees primarily formed to support or oppose state measures to file a disclosure report within 10 business days if \$5,000 or more is received from a single source outside the 90-day election cycle. Gov. Code §§ 84204.5, 85309(c) & (d)
- Recipient committees must file a disclosure report within 10 business days of making a contribution of \$5,000 or more or an independent expenditure of \$5,000 or more to support or oppose the qualification or passage of a single state ballot measure.

- 3/9/16  
to  
6/6/16  
(E-90 to E-1)
51. **ELECTION CYCLE REPORTS — 24-HR. PAYMENT REPORT (SLATE MAILER ORGANIZATIONS) — PERIOD BEGINS**  
During the 90 days immediately preceding an election, each slate mailer organization that receives a payment of \$2,500 or more from a single source for the purpose of supporting or opposing any candidate or ballot measure in a slate mailer must report the payment within 24 hours to the Secretary of State's office by online or electronic transmission only. (Deadlines are extended to the next business day when they fall on a Saturday, Sunday, or an official state holiday, except for the weekend before an election.) Such payments may be reported on a Slate Mailer Late Payment Report (Form 498).  
Gov. Code  
§§ 84203, 84220  
85204
- 3/9/16  
to  
6/7/16  
(E-90 to E)
52. **ELECTION CYCLE REPORTS — 24-HR. CONTRIBUTION REPORT — PERIOD BEGINS**  
During the 90 days immediately preceding an election and including Election Day, the following contributions that total in the aggregate of \$1,000 or more must be reported within 24 hours to the Secretary of State's office by online or electronic transmission only: Contributions made to a candidate, office holder, political party committee, or a committee primarily formed to support or oppose a candidate or ballot measure; contributions received by a candidate, officeholder, a political party committee, a candidate in a CalPERS or CalSTRS election, or a committee primarily formed to support or oppose a candidate or ballot measure. (Deadlines are extended to the next business day when they fall on a Saturday, Sunday, or an official state holiday, except for the weekend before an election.) Recipients of non-monetary or in-kind contributions must file within 48 hours of the date the contribution was received. Such contributions may be reported on a Contribution Report (Form 497).  
Gov. Code  
§§ 82036, 84203  
84203.3, 85204  
85309
- 3/9/16  
to  
6/7/16  
(E-90 to E)
53. **ELECTION CYCLE REPORTS — 24-HR. INDEPENDENT EXPENDITURE REPORT — PERIOD BEGINS**  
During the 90 days immediately preceding an election and including Election Day, all candidates and committees that make an independent expenditure of \$1,000 or more to support or oppose a single candidate for elective state office or a single state ballot measure must report the expenditure within 24 hours to the Secretary of State's office by online or electronic transmission only. For independent expenditures made in connection with a CalPERS or CalSTRS election, a copy must also be filed with the relevant board office. (Deadlines for 24-hour reporting of independent contributions which fall on a Saturday, Sunday, or an official state holiday are NOT extended to the next business day.) Such independent expenditure reports may be reported on an Independent Expenditure Report (Form 496).  
Gov. Code  
§§ 82036.5, 84204  
85204
- 3/9/16  
(E-90)
54. **PRE-ELECTION RESIDENCY CONFIRMATION PROCEDURE DEADLINE**  
On or before this date, county elections officials must complete the pre-election voter residency confirmation procedure as provided in Sections 2220-2227.  
§§ 2220-2227

**June 7, 2016, Presidential Primary Election Calendar**

- 3/11/16  
(E-88)  
[5:00 p.m.]

**55. DECLARATION OF CANDIDACY AND NOMINATION PAPERS FILING DEADLINE — ALL VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATES**

No later than 5:00 p.m. on this day, candidates for United States Senator, United States Representative in Congress, State Senator, Member of the State Assembly, and Member of the County Central Committee must deliver to the county elections official for filing their declarations of candidacy, nomination papers, and ballot designation worksheets.

§§ 333, 8020, 8040  
8041, 8061-8064  
8100, 8105, 8106  
13107.5
  
- 3/11/16  
(E-88)

**56. SIGNATURES IN LIEU OF FILING FEES — SUPPLEMENTAL DEADLINE — ALL VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATES**

Last day a candidate for United States Senator, United States Representative in Congress, State Senator, and Member of the State Assembly may submit supplemental signatures to the county elections official or pay a prorated portion of the filing fee to cover any deficiency in the filing fee payment.

§ 8106(b)(3)
  
- 3/11/16  
(E-88)

**57. CANDIDATE INTENTION STATEMENT — DEADLINE IF PURCHASING SPACE FOR CANDIDATE STATEMENT IN COUNTY SAMPLE BALLOT**

Last day for the Candidate Intention Statement (Form 501) to be filed in order for State Senator and Member of the State Assembly candidates accepting the voluntary expenditure limits to qualify to purchase space for a 250-word candidate statement in the voter information portion of the official sample ballot(s) of the county or counties in the jurisdiction.

Gov. Code  
§§ 85200, 85400  
85401, 85600  
85601
  
- 3/11/16  
(E-88)

**58. CANDIDATE STATEMENTS IN THE COUNTY SAMPLE BALLOT DEADLINE**

Last day candidates for United States Representative in Congress, State Senator, and Member of the Assembly may purchase space for a 250-word candidate statement in the voter information portion of the official sample ballot(s) of the county or counties in their jurisdiction. Candidates for State Senator and Member of the Assembly may purchase statement space only if they have agreed to voluntary expenditure limits on their Candidate Intention Statement (Form 501).

Gov. Code  
§ 85601(c)  
§ 13307.5
  
- 3/11/16  
(E-88)

**59. STATEMENT OF ECONOMIC INTERESTS**

Last day for specified candidates in an election to file a Statement of Economic Interests (Form 700) disclosing their investments, interests in real property, and any income received during the immediately preceding 12 months.

Gov. Code  
§§ 87200-87203  
87500
  
- 3/12/16\*  
to  
3/16/16  
(E-87 to E-83)  
[5:00 p.m.]

**60. NOMINATION PERIOD EXTENSION — VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATES**

If an eligible incumbent for United States Senator, United States Representative in Congress, State Senator, or Member of the Assembly fails to file nomination papers by 5:00 p.m. on March 11, 2016 (E-88), a five-day extension is allowed for any person, other than the incumbent, if otherwise qualified, to file for the office.

§§ 8022, 8100, 8105  
8106



0181

**June 7, 2016, Presidential Primary Election Calendar**

- 3/12/16\*  
to  
3/25/16  
(E-87 to E-74)  
[5:00 p.m.]
- 61. NOMINATION PERIOD EXTENSION — DEATH OF A VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATE**
- If a candidate has filed nomination papers for a voter-nominated, non-presidential office at the primary election and that candidate dies after March 11, 2016 (E-88), but on or before March 16, 2016 (E-83), any qualified person may circulate and deliver nomination documents for the office to the county elections official not later than 5:00 p.m. on March 25, 2016 (E-74).
- § 8025
- 
- 3/14/16  
(E-85)
- 62. LAST DAY STATE VOTER INFORMATION GUIDE AVAILABLE FOR PUBLIC EXAMINATION AND COPY DELIVERED TO THE STATE PRINTER**
- Last day the state Voter Information Guide for the primary election will be available for public examination prior to printing. Last day for the Secretary of State to deliver copy for preparation of the state Voter Information Guide to the Office of State Publishing.
- Gov. Code § 88006  
§§ 9054, 9082  
9092, 13282
- 
- 3/16/16  
(E-83)
- 63. NOMINATION DOCUMENTS FORWARDED TO THE SECRETARY OF STATE — DEADLINE**
- Last day for county elections officials to forward nomination documents for United States Senator, United States Representative in Congress, State Senator, and Member of the Assembly, together with a statement showing the number of valid nomination signatures to the Secretary of State.
- §§ 8070, 8082
- 
- 3/16/16  
(E-83)
- 64. POLITICAL PARTY ENDORSEMENTS FOR VOTER-NOMINATED OFFICES DEADLINE**
- Last day for the party chairperson of any qualified political party to submit to the county elections official a list of all candidates for voter-nominated office who will appear on any ballot in the county in question, and who have been endorsed by the party. The county elections official shall print any such list that is timely received in the official sample ballot.
- § 13302(b)
- 
- 3/16/16  
(E-83)  
[5:00 p.m.]
- 65. NOMINATION PERIOD EXTENSION DEADLINE — VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATES**
- Last day for any person, other than an eligible incumbent who did not qualify for nomination by March 11, 2016 (E-88), to file nomination documents for United States Senator, United States Representative in Congress, State Senator or Member of the State Assembly.
- § 8022
- 
- 3/17/16  
(E-82)  
[11:00 a.m.]
- 66. RANDOMIZED ALPHABET DRAWING**
- The Secretary of State shall conduct the randomized alphabet drawing at 11:00 a.m. and mail the results immediately to county elections officials so that they may determine the order in which the candidates shall appear on the primary election ballot.
- §§ 13111  
13112(b)(1)(B)
- 
- 3/17/16  
(E-82)
- 67. DEMOCRATIC STEERING COMMITTEE STATEMENT DEADLINE**
- On or before this date, the chairperson of a candidate's seven-member steering committee shall file with the Secretary of State a statement containing the names and addresses of the members of the steering committee.
- §§ 6080, 6081

## June 7, 2016, Presidential Primary Election Calendar

- For the purposes of the Democratic caucus, contact the California Democratic Party.
- 3/25/16  
(E-74)
- 68. PRESIDENTIAL NOMINATION PAPERS — UNSELECTED CANDIDATES — REPUBLICAN AND GREEN PARTIES**
- Last day for unselected candidates to leave nomination papers for examination with the county elections official of the county in which they are circulated. There are no provisions for an uncommitted delegation.
- For the Green Party, upon receipt of a sufficient number of signatures for the nomination of a candidate for the presidential preference primary ballot, the Secretary of State shall notify the candidate or his or her duly authorized representative of that fact.
- §§ 6343, 6360-6365  
6382, 6853.5  
6854-6857  
§ 6860
- 3/25/16  
(E-74)
- 69. PRESIDENTIAL NOMINATION PAPERS — AMERICAN INDEPENDENT, LIBERTARIAN, AND PEACE AND FREEDOM PARTIES**
- Last day to leave nomination papers for examination with the county elections official of the county in which they are circulated. This applies to the nomination of a candidate for the presidential preference portion of the primary ballot, to the nomination of a slate of delegates pledged to the candidacy of a particular candidate, and to the nomination of a slate of delegates not expressing a preference for a particular candidate.
- For the American Independent Party, upon receipt of a sufficient number of signatures for the nomination of a candidate for the presidential preference primary ballot or of a group of candidates for delegates, the Secretary of State shall notify the candidate or the chairperson of the committee, respectively, of that fact and that no more signatures will be received.
- §§ 6568, 6580-6587  
6591, 6769-6791  
§ 6595
- 3/25/16  
(E-74)  
[5:00 p.m.]
- 70. NOMINATION PERIOD EXTENSION — DEATH OF A VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATE**
- By 5:00 p.m. on this day, any qualified person can deliver to the county elections official his or her nomination documents for any voter-nominated, non-presidential office for which a candidate had filed but who died after March 11, 2016 (E-88), but on or before March 16, 2016 (E-83).
- § 8025
- 3/26/16\*\*  
(E-73)
- 71. PRESIDENTIAL NOMINATION PAPERS — UNSELECTED CANDIDATES OR UNCOMMITTED DELEGATION — DEMOCRATIC PARTY**
- Last day for the steering committee of each unselected presidential candidate or uncommitted delegation to leave nomination papers for examination with the county elections official of the county in which they are circulated.
- Upon receipt of a sufficient number of signatures for the presidential primary ballot, the Secretary of State shall notify the chairperson of the steering committee of that fact and advise him or her that no more signatures will be received.
- §§ 6061, 6082, 6101  
6108, 6122  
§ 6103

## June 7, 2016, Presidential Primary Election Calendar

- |                     |   |                                   |
|---------------------|---|-----------------------------------|
| 3/26/16*<br>(E-73)  | <p><b>72. NOTICE TO CANDIDATES — ALL VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATES</b></p> <p>On or before this day, but not fewer than five days before sending the certified list of candidates to the county elections officials, the Secretary of State shall notify each candidate for United States Senator, United States Representative in Congress, State Senator, and Member of the State Assembly of the names, addresses, offices, ballot designations, and party preferences of all other persons who have filed for the same office.</p> | § 8121(a)                         |
| 3/26/16*<br>(E-73)  | <p><b>73. PARTY PREFERENCE HISTORY POSTING ON WEBSITE — ALL VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATES</b></p> <p>On or before this date, the Secretary of State to post on its website the party preference history of each candidate for United States Senator, United States Representative in Congress, State Senator, and Member of the State Assembly for the preceding 10 years.</p>   | § 8121(b)                         |
| 3/30/16<br>(E-69)   | <p><b>74. COUNTY FILING DEADLINE FOR PRESIDENTIAL NOMINATION PAPERS — REPUBLICAN, AMERICAN INDEPENDENT, GREEN, LIBERTARIAN, AND PEACE AND FREEDOM PARTIES</b></p> <p>Last day for the county elections official to certify and send to the Secretary of State any presidential nomination papers received by March 25, 2016 (E-74).</p>   | §§ 6404, 6597<br>6796, 6859       |
| 3/31/16**<br>(E-68) | <p><b>75. COUNTY FILING DEADLINE FOR PRESIDENTIAL NOMINATION PAPERS — DEMOCRATIC PARTY</b></p> <p>Last day for the county elections official to certify and send to Secretary of State any Democratic presidential candidate nomination papers filed by March 26, 2016** (E-73).</p>  | §§ 6101, 6144                     |
| 3/31/16**<br>(E-68) | <p><b>76. NOTIFICATION OF QUALIFICATION FOR PLACEMENT ON BALLOT — DEMOCRATIC PRESIDENTIAL CANDIDATES</b></p> <p>Last day for the Secretary of State to notify each steering committee whether or not it has qualified a candidate or uncommitted delegation for placement on the ballot by the nomination process.</p>  | § 6160                            |
| 3/31/16**<br>(E-68) | <p><b>77. ANNOUNCEMENT OF SELECTED PRESIDENTIAL CANDIDATES — DEMOCRATIC PARTY</b></p> <p>Last day for the Secretary of State to announce and publicize the list of names of those persons whom he intends to place on the Democratic primary election ballot. Following the announcement but before 5:00 p.m. on this day, he may add candidates to, but may not delete any candidate from the list.</p>  | §§ 6041-6043                      |
| 3/31/16**<br>(E-68) | <p><b>78. WITHDRAWAL OF PRESIDENTIAL CANDIDATE — DEMOCRATIC, REPUBLICAN, AMERICAN INDEPENDENT, GREEN, LIBERTARIAN, AND PEACE AND FREEDOM PARTIES</b></p> <p>Last day a selected or unselected presidential candidate may file an affidavit by 5:00 p.m. on this day with the Secretary of State in order to have his or her name withdrawn from the primary election ballot.</p>  | §§ 6042, 6342, 6522<br>6724, 6853 |



## June 7, 2016, Presidential Primary Election Calendar

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|--|--|---|
| <p>4/11/16<br/>to<br/>5/24/16<br/>(E-57 to E-14)</p>           | <p><b>85. STATEMENT OF WRITE-IN CANDIDACY AND NOMINATION PAPERS — ALL VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATES</b><br/>Period in which a write-in candidate for United States Senator, United States Representative in Congress, State Senator, and Member of the State Assembly must leave a statement of write-in candidacy and nomination papers with the county elections official for filing with the Secretary of State.</p>   | <p>§ 8601</p>   |
| <p>4/18/16<br/>(E-50)</p>                                      | <p><b>86. VOTER REGISTRATION FILES TO THE SECRETARY OF STATE FOR STATE VOTER INFORMATION GUIDE MAILING</b><br/>Last day for county elections officials to send the Secretary of State a copy of their load files of all voters registered as of April 8, 2016 (E-60). The copy of the voter registration file should reflect the results of the pre-election residency confirmation procedure.</p>   | <p>§§ 2220-2227<br/>9094(a)</p>                                   |
| <p>4/18/16<br/>(E-50)</p>                                      | <p><b>87. REPORT OF REGISTRATION — 60-DAY COUNTY REPORT SUMMARIES DUE</b><br/>Last day for county elections officials to send the Secretary of State a summary statement showing the number of registered voters in their counties as of April 8, 2016 (E-60).</p>   | <p>§ 2187(a), (c)<br/>&amp; (d)(2)</p>                            |
| <p>4/23/16*<sup>3</sup><br/>(E-45)<br/>[Date fixed by law]</p> | <p><b>88. MILITARY OR OVERSEAS VOTER BALLOTS</b><br/>Last day for the county elections official to transmit ballots and balloting materials to absent military or overseas voters who have requested them by this date. If a military or overseas voter ballot application is received after this date, the county elections official shall transmit a ballot and balloting materials as soon as practicable.</p>  | <p>52 U.S.C. § 20302<br/>(MOVE Act)<br/>§ 311c</p>                |
| <p>4/23/16*<br/>(E-45)</p>                                     | <p><b>89. STATE VOTER INFORMATION GUIDES FURNISHED TO COUNTIES</b><br/>On or before this date, the Secretary of State shall furnish copies of the state Voter Information Guide to those counties that do not use data processing equipment to maintain their registered voter files. State Voter Information Guides will also be sent to all counties for their supplemental mailings to persons who register between Saturday, April 9, 2016 (E-59), and May 9, 2016 (E-29).</p> | <p>§ 9094(b) &amp; (c)</p>  |
| <p>4/23/16*<br/>(E-45)</p>                                     | <p><b>90. STATE VOTER INFORMATION GUIDES TO STATE AND LOCAL OFFICIALS AND PUBLIC INSTITUTIONS</b><br/>On or before this date, the Secretary of State shall send a specified number of copies of the state Voter Information Guide to city and county elections officials, members of the Legislature, proponents of statewide ballot measures, public libraries, and specified educational institutions.</p>   | <p>§ 909c</p>   |
| <p>4/23/16**<br/>to<br/>6/6/16<br/>(E-45 to E-1)</p>           | <p><b>91. ISSUE ADVOCACY REPORT (ELECTRONIC FILING ONLY)</b><br/>A disclosure report must be filed within 48 hours by anyone spending or promising to pay \$50,000 or more for a communication disseminated, broadcast, or otherwise published within 45 days of an election, if the communication clearly identifies a candidate for state elective office but does not expressly advocate the election or defeat of that candidate.</p>  | <p>Gov. Code § 85310<br/>Cal. Code Reg.<br/>tit. 2, § 18539.2</p> |

## June 7, 2016, Presidential Primary Election Calendar

- |   |  |  |
|---|--|--|
| 4/28/16<br>(E-40)                           | <p><b>92. FIRST PRE-ELECTION STATEMENT</b><br/>Last day to file campaign statements with the Secretary of State's Political Reform Division for candidates and committees for the period ending April 28, 2016 (E-40).</p>   | Gov. Code<br>§ 84200.8'                      |
| 4/28/16<br>to<br>5/17/16<br>(E-40 to E-21)  | <p><b>93. STATE VOTER INFORMATION GUIDE MAILING</b><br/>Period in which the Secretary of State shall mail state Voter Information Guides to all households in which voters were registered by April 8, 2016 (E-60). This mailing is based on the voter registration files provided by county elections officials to the Secretary of State by April 18, 2016 (E-50).</p> <p>In those counties in which such data processing equipment is not used, the county elections official shall mail the state Voter Information Guides to all voters registered by April 8, 2016 (E-60).</p>   | § 9094(a)<br><br>§ 9094(b)                   |
| 4/28/16<br>to<br>5/28/16*<br>(E-40 to E-10) | <p><b>94. COUNTY SAMPLE BALLOT AND POLLING PLACE NOTICE MAILING</b><br/>Period in which the county elections official shall mail a polling place notice and sample ballot to each registered voter who registered at least 29 days before the election, unless the voter has opted to receive them electronically. The polling place notice may state whether the polling place is accessible to the physically handicapped.</p> <p>The county elections official shall also give sample ballots to the chairperson of the county central committee of each political party, shall mail a copy to each candidate, and shall post a copy of the sample ballot in a conspicuous place in their office.</p> | §§ 13300, 13300.7<br>13304<br><br>§ 13302(a) |
| 4/30/16**<br>(E-38)                         | <p><b>95. QUARTERLY STATEMENTS BY BALLOT MEASURE COMMITTEES</b><br/>Last day for committees that have qualified as a recipient committee and are primarily formed to support or oppose the qualification, passage, or defeat of any measure to file a quarterly campaign statement for the period January 1, 2016 (E-158), through March 31, 2016 (E-68), unless the committee will file preelection statements for an upcoming election.</p>  | Gov. Code<br>§ 84202.3                       |
| 5/8/16*<br>(E-30)                           | <p><b>96. NOTICE OF EARLY TABULATION</b><br/>On or before this date, the county governing body to notify the county elections official that certain offices or measures to be voted on are of more than ordinary public interest and will require an early tabulation and announcement.</p>  | § 14440                                      |
| 5/8/16**<br>(E-30)                          | <p><b>97. SLATE OF REPUBLICAN DELEGATE CANDIDATES TO SECRETARY OF STATE</b><br/>Last day a Republican candidate or his or her designees may submit to the Secretary of State the names of persons chosen as delegates.</p>   | §§ 6460, 6461                                |
| 5/9/16<br>(E-29)                            | <p><b>98. PRECINCT BOARD MEMBERS AND POLLING PLACES</b><br/>On or before this date, the county elections official to appoint the members of the precinct boards and designate the polling places.</p>  | § 12280                                      |

## June 7, 2016, Presidential Primary Election Calendar

- 5/9/16  
to  
5/31/16  
(E-29 to E-7)
99. **VOTE-BY-MAIL BALLOT APPLICATION**  
Period in which any registered voter may apply to the county elections official for a vote-by-mail ballot. Applications received before May 9, 2016 (E-29), shall be kept and processed during this application period. §§ 3001, 3002
- 5/9/16  
to  
6/7/16  
(E-29 to E)
100. **VOTE-BY-MAIL BALLOT APPLICATIONS FOR OUT-OF-STATE EMERGENCY WORKERS**  
Period within which, upon the declaration of an out-of-state emergency by the Governor and the issuance of an executive order authorizing an out-of-state emergency worker to cast a ballot outside of his or her home precinct, an out-of-state emergency worker may request and vote a vote-by-mail ballot, which must be returned in the same manner as all other voted vote-by-mail ballots. §§ 336.7, 3021.5
- 5/17/16  
(E-21)
101. **STATE VOTER INFORMATION GUIDE MAILING DEADLINE**  
On or before this date, the Secretary of State, or the county elections official, if appropriate, to mail state Voter Information Guides to all households in which voters were registered by April 8, 2016 (E-60). § 9094(a)
- 5/17/16  
(E-21)
102. **PRESIDENTIAL WRITE-IN CANDIDATES DEADLINE**  
Last day for write-in presidential candidates of all parties to file an endorsement with the Secretary of State in order to have his or her write-in votes counted. No filing fee is required. §§ 6241, 6441, 6621, 6822, 6862
- 5/18/16  
(E-20)
103. **REPORT OF REGISTRATION — 60-DAY STATEWIDE REPORT PUBLISHED**  
On or before this date, the Secretary of State will release a statewide report showing the number of registered voters, by political party preference, in the state, each county, and each political subdivision thereof. This report is based on the summary statements sent by each county elections official by April 18, 2016 (E-50). § 2187(b) & (d)(2)
- 5/22/16\*\*  
to  
6/6/16  
(E-16 to E-1)
104. **24-HOUR STATEMENT OF ORGANIZATION — RECIPIENT COMMITTEES AND SLATE MAILER ORGANIZATIONS**  
A recipient committee or slate mailer organization that qualifies during the 16 days prior to an election in which it must file pre-election statements must file a Statement of Organization Recipient Committee (Form 410) within 24 hours of qualification with the filing officer who will receive the committee's original disclosure statements by personal delivery, facsimile transmission, or guaranteed overnight delivery. Gov. Code §§ 84101, 84102
- 5/23/16  
E-15
105. **VOTER REGISTRATION DEADLINE FOR THE PRESIDENTIAL PRIMARY ELECTION**  
Last day to register to vote in the primary election. The Voter Registration Form shall be mailed (postmarked by this date) or delivered to the county elections official by this date and is effective upon receipt. The Voter Registration Form may also be submitted by this date to the Secretary of State, Department of Motor Vehicles, or any National Voter Registration Act designated agency. 52 U.S.C. §§ 20301, 20501, 300(b), 321, 2102, 2107, 3102
- Last day for military or overseas voters to register to vote.

## June 7, 2016, Presidential Primary Election Calendar

A request for a vote-by-mail ballot from a military or overseas voter, if postmarked on or before this date, will be deemed an affidavit of registration and an application for permanent vote-by-mail status. When a county elections official receives and approves a registration application from a military or overseas voter, the official must provide that voter with a vote-by-mail ballot for each subsequent election for federal office in the state unless the voter fails to vote in four consecutive statewide general elections. § 3102(e)

5/23/16  
(E-15)

**106. NOTICE OF CHANGE OF ADDRESS WITHIN COUNTY**

Last day before the primary election for any voter to send a notice or letter advising the county elections official of a change of address within the county. The notice or letter shall be mailed (postmarked by this date) or delivered to the county elections official by this date and is effective upon receipt. The notice or letter may also be submitted to the Department of Motor Vehicles or any National Voter Registration Act designated agency prior to the election. The county elections official shall correct the registration records accordingly. The notice or letter is in lieu of re-registering. § 2115

5/23/16  
(E-15)

**107. COMPUTER PROCESSING OF VOTE-BY-MAIL BALLOTS**

Counties having the necessary computer capability may begin to process vote-by-mail ballots on this date. This process may be completed to the point of placing the ballot information on a computer medium, but under NO circumstances may a vote count be accessed or released until 8:00 p.m. on June 7, 2016 (E). § 15101

[10 Business Days]

All other county elections officials shall start to process vote-by-mail ballots at 5:00 p.m. on the day before the election, the results of which shall not be released before 8:00 p.m. on June 7, 2016 (E).

5/23/16  
to

5/31/16  
(E-15 to E-7)

**108. REPORT OF REGISTRATION — 15-DAY COUNTY REPORT**

Period in which county elections officials shall send the Secretary of State a summary statement showing the number of registered voters in their counties, by political party preference and in each political subdivision thereof. This statement is based on the number of persons registered as of May 23, 2016 (E-15). § 2187(a), (c) & (d)(3)

5/24/16  
(E-14)

**109. STATEMENT OF WRITE-IN CANDIDACY AND NOMINATION PAPERS — ALL VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATES**

Last day for a write-in candidate for United States Senator, United States Representative in Congress, State Senator, and Member of the Assembly, to leave a statement of write-in candidacy and nomination papers with the county elections official for filing with the Secretary of State. § 8601

5/24/16  
(E-14)

**110. BILINGUAL PRECINCT BOARD MEMBERS**

Last day for county elections officials to prepare a list of precincts to which bilingual officers were appointed. A copy of this list shall be made available to the public. § 12303(d)



## June 7, 2016, Presidential Primary Election Calendar

5/24/16 to 5/31/16 (E-14 to E-7)	<p><b>111. NEW RESIDENT REGISTRATION PERIOD</b></p> <p>Any person who becomes a new resident after May 23, 2016 (E-15), may register to vote beginning on May 24, 2016 (E-14), and ending May 31, 2016 (E-7). This registration must be executed in the county elections office and the new resident shall vote a new resident's ballot in that office. A new resident is eligible to vote for only president and vice president.</p> <p>The ballots of new residents shall be received and canvassed at the same time and under the same procedure as vote-by-mail ballots.</p>	<p>§§ 332, 340</p> <p>§ 340</p>
5/24/16 to 6/7/16 (E-14 to E)	<p><b>112. NEW CITIZEN REGISTRATION PERIOD</b></p> <p>A new citizen is eligible to register and vote at the office of, or at another location designated by, the county elections official at any time beginning on May 24, 2016 (E-14), and ending at the close of polls on June 7, 2016 (E).</p> <p>A new citizen registering to vote after the close of registration shall provide the county elections official with proof of citizenship prior to voting and shall declare that he or she has established residency in California.</p> <p>The ballots of new citizens shall be received and canvassed at the same time and under the same procedure as vote-by-mail ballots.</p>	<p>§§ 331, 350</p> <p>§ 3501</p> <p>§ 3502</p>
5/26/16 (E-12)	<p><b>113. SECOND PRE-ELECTION STATEMENT</b></p> <p>Last day to file campaign statements for candidates and committees for the period ending May 21, 2016 (E-17). Candidates being voted upon, their controlled committees, and committees primarily formed to support or oppose a candidate or measure must file the second pre-election paper statement by guaranteed overnight mail or personal delivery, in addition to any electronic filing requirements.</p>	<p>Gov. Code § 84200.8</p>
5/27/16 (E-11) [Date designated by Secretary of State]	<p><b>114. CERTIFIED LIST OF WRITE-IN CANDIDATES</b></p> <p>The Secretary of State will prepare and send to affected county elections officials a certified list of write-in candidates showing the names of every write-in candidate eligible to receive votes within the county at the primary election, their addresses, and the offices to which they seek election. This list will also be mailed to each candidate running for the affected offices.</p>	
5/28/16* (E-10)	<p><b>115. COUNTY SAMPLE BALLOTS MAILING DEADLINE</b></p> <p>On or before this date, the county elections official to mail sample ballots to voters who registered at least 29 days before the election.</p>	<p>§§ 13300, 13304</p>
5/28/16* (E-10)	<p><b>116. PUBLICATION OF TALLY CENTER LOCATION</b></p> <p>On or before this date, a notice shall be published by the county elections official at least once in a newspaper of general circulation within the district specifying the public place to be used as the central tally center for counting the ballots.</p>	<p>§ 1210</p>

## June 7, 2016, Presidential Primary Election Calendar

- 5/28/16\*  
(E-10)      **117. STATE VOTER INFORMATION GUIDE SUPPLEMENTAL MAILING BY COUNTY — DEADLINE**  
On or before this date, county elections officials to mail state Voter Information Guides to voters who registered between Saturday, April 9, 2016 (E-59), and May 9, 2016 (E-29), inclusive.      § 9094(c)
- 5/31/16  
(E-7)      **118. NEW RESIDENT REGISTRATION PERIOD DEADLINE**  
Last day for new resident to register to vote prior to Election Day. This registration must be executed in the county elections office and the new resident shall vote a new resident's ballot in that office. A new resident is eligible to vote for only president and vice president.      §§ 332, 340C  
  
The ballots of new residents shall be received and canvassed at the same time and under the same procedure as vote-by-mail ballots.      § 340C
- 5/31/16  
(E-7)      **119. REPORT OF REGISTRATION — 15-DAY COUNTY REPORT SUMMARIES DUE**  
Last day for county elections officials to send to the Secretary of State a summary statement showing the number of registered voters in their counties as of May 23, 2016 (E-15).      § 2187(a), (c) & (d)(3)
- 5/31/16  
(E-7)      **120. VOTE-BY-MAIL BALLOT APPLICATION DEADLINE**  
Last day for the county elections official to receive any voter's application for a vote-by-mail ballot, including an application from a military or overseas voter, and to issue such ballot for the primary election.      §§ 3001, 3003, 3102  
  
See Items #122 and #123 for exceptions.
- 5/31/16  
(E-7)  
[5:00 p.m.]      **121. COMPUTER PROGRAM TO SECRETARY OF STATE**  
Last day for counties to verify their election night vote count computer programs and deposit copies thereof with the Secretary of State.      § 15001(a)
- 6/1/16  
to  
6/6/16  
(E-6 to E-1)      **122. MILITARY OR OVERSEAS VOTER RECALLED TO SERVICE**  
Period in which a registered military or overseas voter recalled to service after May 31, 2016 (E-7), but before 5:00 p.m. on June 6, 2016 (E-1), may appear before the county elections official and obtain a vote-by-mail ballot which may be voted in, or outside, the county elections official's office on or before the close of the polls and returned as are other voted vote-by-mail ballots.      § 3111
- 6/1/16  
to  
6/7/16  
(E-6 to E)      **123. REQUEST FOR VOTE-BY-MAIL BALLOTS — LATE CONDITIONS**  
Period in which any voter may request in writing a vote-by-mail ballot if because of specified conditions he or she will be unable to go to the polls on Election Day. A written statement is not necessary if the vote-by-mail ballot is voted in the office of the elections official at the time of the request. The voter may designate any authorized representative to return the voted vote-by-mail ballot.      § 3021

## June 7, 2016, Presidential Primary Election Calendar

- 6/6/16  
(E-1)
- 124. ISSUE ADVOCACY REPORT (ELECTRONIC FILING ONLY) — PERIOD ENDS**
- A disclosure report must be filed within 48 hours by anyone spending or promising to pay \$50,000 or more for a communication disseminated, broadcast, or otherwise published within 45 days of an election, if the communication clearly identifies a candidate for state elective office but does not expressly advocate the election or defeat of that candidate.
- Gov. Code § 85310  
Cal. Code Reg.  
tit. 2  
§ 18539.2
- 6/6/16  
(E-1)
- 125. ELECTION CYCLE REPORTS — 24-HR. PAYMENT REPORT (SLATE MAILER ORGANIZATIONS) — PERIOD ENDS**
- During the 90 days immediately preceding an election, each slate mailer organization that receives a payment of \$2,500 or more from a single source for the purpose of supporting or opposing any candidate or ballot measure in a slate mailer must report the payment within 24 hours to the Secretary of State's office by online or electronic transmission only. (Deadlines are extended to the next business day when they fall on a Saturday, Sunday, or an official state holiday, except for the weekend before an election.) Such payments may be reported on Slate Mailer Late Payment Report (Form 498).
- Gov. Code  
§§ 84203, 84220  
85204
- 6/6/16  
(E-1)
- 126. 24-HOUR STATEMENT OF ORGANIZATION — RECIPIENT COMMITTEES AND SLATE MAILER ORGANIZATIONS — PERIOD ENDS**
- A recipient committee or slate mailer organization that qualifies during the 16 days prior to an election in which it must file pre-election statements must file a Statement of Organization Recipient Committee (Form 410) within 24 hours of qualification with the filing officer who will receive the committee's original disclosure statements by personal delivery, facsimile transmission, or guaranteed overnight delivery.
- Gov. Code  
§§ 84101, 84108
- 6/6/16  
(E-1)  
[5:00 p.m.]
- 127. MANUAL PROCESSING OF VOTE-BY-MAIL BALLOTS**
- Counties not having the necessary computer capability may begin to manually process vote-by-mail ballots at 5:00 p.m. on this date, but under NO circumstance may a vote count be accessed or released until 8:00 p.m. on June 7, 2016 (E).
- § 15101
- 6/6/16  
(E-1)  
[5:00 p.m.]
- 128. MILITARY OR OVERSEAS VOTER RECALLED TO SERVICE — REGISTRATION DEADLINE**
- Last day a registered military or overseas voter recalled to service after May 31, 2016 (E-7), but before 5:00 p.m. on June 6, 2016 (E-1), may appear before the county elections official and obtain a vote-by-mail ballot which may be voted in, or outside, the county elections official's office on or before the close of the polls and returned as are other voted vote-by-mail ballots.
- § 3111
- 6/7/16  
(E)
- 129. PRESIDENTIAL PRIMARY ELECTION DAY**
- On this date, the polls shall be open throughout the state from 7:00 a.m. to 8:00 p.m.
- §§ 1000(c), 14212

**June 7, 2016, Presidential Primary Election Calendar**

Voters who have moved from one address to another within the same county and who have not re-registered may vote a provisional ballot at the polling place for their current (new) address, at the office of the county elections official, or at a central location designated by the county elections official.

§ 14311

6/7/16  
(E)

**130. HAND DELIVERED OR FAXED VOTE-BY-MAIL BALLOTS RETURNED IN ORDER TO BE COUNTED — DEADLINE**

Hand delivered voted vote-by-mail ballots must be received by the county elections official by the close of the polls on Election Day.

§§ 3012, 3017  
14212

Last day a military or overseas voter who is living outside of the United States (or is called for service within the United States on or after May 31, 2016 (E-7)) may return his or her ballot by facsimile transmission. To be counted, the ballot returned by facsimile transmission shall be received by the voter's elections official by 8:00 p.m. on Election Day and shall be accompanied by an identification envelope and a signed oath of voter declaration.

6/7/16  
(E)

**131. ELECTION CYCLE REPORTS — 24-HR. CONTRIBUTION REPORT PERIOD ENDS**

During the 90 days immediately preceding an election and including Election Day, the following contributions that total in the aggregate of \$1,000 or more must be reported within 24 hours to the Secretary of State's office by online or electronic transmission only: Contributions made to a candidate, officeholder, political party committee, or a committee primarily formed to support or oppose a candidate or ballot measure; contributions received by a candidate, officeholder, a political party committee, a candidate in a CalPERS or CalSTRS election, or a committee primarily formed to support or oppose a candidate or ballot measure. (Deadlines are extended to the next business day when they fall on a Saturday, Sunday, or an official state holiday, except for the weekend before an election.) Recipients of non-monetary or in-kind contributions must file within 48 hours of the date the contribution was received. Such contributions may be reported on a Contribution Report (Form 497).

Gov. Code  
§§ 82036, 84203  
84203.3, 85204  
85309

6/7/16  
(E)

**132. ELECTION CYCLE REPORTS — 24-HR. INDEPENDENT EXPENDITURE REPORT PERIOD ENDS**

During the 90 days immediately preceding an election and including Election Day, all candidates and committees that make an independent expenditure of \$1,000 or more to support or oppose a single candidate for elective state office or a single state ballot measure must report the expenditure within 24 hours to the Secretary of State's office by online or electronic transmission only. For independent expenditures made in connection with a CalPERS or CalSTRS election, a copy must also be filed with the relevant board office. (Deadlines for 24-hour reporting of independent contributions which fall on a Saturday, Sunday, or an official state holiday are NOT extended to the next business day.) Such independent expenditure reports may be reported on an Independent Expenditure Report (Form 496).

Gov. Code  
§§ 82036.5, 84204  
85204

## June 7, 2016, Presidential Primary Election Calendar

- 6/7/16  
(E) **133. MILITARY OR OVERSEAS VOTERS — LATE CONDITIONS** §§ 300(b), 321, 3108
- Last day an unregistered military or overseas voter who was released from service after May 23, 2016 (E-15), the close of registration, and who has returned to his or her county of residence may apply in person to register with the county elections official and vote in the election. Documentary proof of release from service is required. On or before the day of the election the county elections official shall deliver to the precinct board a list of military or overseas voters registered under Section 3108.
- Any registered military or overseas voter who has returned to their county of registration on or before this day and to whom a vote-by-mail ballot has been mailed, but not voted, may apply for a second vote-by-mail ballot. The elections official shall require him or her to sign an authorization to cancel the vote-by-mail ballot previously issued and shall then issue another vote-by-mail ballot to the voter or certify to the precinct board that the voter is eligible to vote in the precinct polling place of his or her residence. § 3109
- Last day a registered or unregistered military or overseas voter, who returns to the county after May 31, 2016 (E-7), may appear before the county elections official and make application for registration, a vote-by-mail ballot, or both. The county elections official shall register the voter, if not registered, and shall deliver a vote-by-mail ballot which may be voted in, or outside, the county elections official's office on or before the close of the polls on Election Day and returned as are other voted vote-by-mail ballots. § 3110
- 6/7/16  
(E) **134. REQUEST FOR VOTE-BY-MAIL BALLOTS — LATE CONDITIONS** § 3021
- Last day any voter may request in writing a vote-by-mail ballot because of specified conditions resulting in his or her absence from the polling place or precinct on Election Day.
- 6/7/16  
(E) **135. VOTE-BY-MAIL BALLOT APPLICATIONS FOR OUT-OF-STATE EMERGENCY WORKERS** §§ 336.7, 3021.5
- Last day, upon the declaration of an out-of-state emergency by the Governor and the issuance of an executive order authorizing an out-of-state emergency worker to cast a ballot outside of his or her home precinct, an out-of-state emergency worker may request and vote a vote-by-mail ballot, which must be returned in the same manner as other voted vote-by-mail ballots.
- 6/7/16  
(E)  
[8:00 p.m.] **136. NEW CITIZEN REGISTRATION DEADLINE** §§ 331, 3500, 3501
- Last day a new citizen is eligible to register to vote after the close of registration. The new citizen shall provide the county elections official with proof of citizenship prior to voting and declare that he or she has established residency in California.
- The ballots of new citizens shall be received and canvassed at the same time and under the same procedure as vote-by-mail ballots. § 3502

## June 7, 2016, Presidential Primary Election Calendar

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|--|---|--------------------------------------|
| <p>6/7/16<br/>(E)<br/>[8:00 p.m.]</p>              | <p><b>137. SEMIFINAL OFFICIAL CANVASS</b><br/>Beginning at 8:00 p.m. and continuously until completed, the county elections official shall conduct the semifinal official canvass of votes and report totals to the Secretary of State at least every two hours.</p>  | <p>§§ 15150, 15151</p>               |
| <p>6/8/16<br/>to<br/>6/21/16<br/>(E+1 to E+14)</p> | <p><b>138. AMENDED CANDIDATE INTENTION STATEMENT — STATE SENATOR AND MEMBER OF THE ASSEMBLY</b><br/>If the voluntary expenditure ceiling is rejected in the primary, but not exceeded during that election, the Candidate Statement of Intention (Form 501) may be amended to accept the expenditure ceiling for the general. The amended Form 501 must be filed within 14 days following the primary election.</p>   | <p>Gov. Code<br/>§§ 85200, 85401</p> |
| <p>6/9/16<br/>to<br/>7/7/16<br/>(E+2 to E+30)</p>  | <p><b>139. OFFICIAL CANVASS — BEGINNING</b><br/>Beginning no later than the Thursday following the election, the county elections official must begin the official canvass of the precinct returns. This canvass must be completed no later than July 7, 2016 (E+30).</p>   | <p>§§ 15301, 15372</p>               |
| <p>6/10/16<br/>(E+3)</p>                           | <p><b>140. MAILED VOTE-BY-MAIL BALLOTS — LAST DAY TO BE COUNTED</b><br/>Any vote-by-mail ballot cast shall be deemed timely if it is received by the elections official via the United States Postal Service or a bona fide private mail delivery company no later than three days after Election Day and either of the following is satisfied: 1) The ballot is postmarked on or before Election Day or is time stamped or date stamped by a bona fide private mail delivery company on or before Election Day, or, 2) If the ballot has no postmark, a postmark with no date, or an illegible postmark, the vote-by-mail ballot identification envelope is date stamped by the elections official upon receipt of the vote-by-mail ballot from the United States Postal Service or a bona fide private mail delivery company, and is signed and dated pursuant to Section 3011 on or before Election Day.</p> | <p>§§ 3017, 3020</p>                 |
| <p>6/10/16<br/>(E+3)</p>                           | <p><b>141. SEMI-OFFICIAL CANVASS — LIBERTARIAN AND PEACE AND FREEDOM PARTIES</b><br/>Last day for the Secretary of State to send to the chairpersons of each committee qualifying a group of candidates for the primary election ballot a copy of the semi-official canvass of the vote for each group in each county, the total statewide vote for each group, and the tentative number of delegates which each group will be entitled to have declared elected.</p>   | <p>§ 6841</p>                        |
| <p>6/15/16<br/>(E+8)<br/>[5:00 p.m.]</p>           | <p><b>142. VOTE-BY-MAIL BALLOTS — UNSIGNED IDENTIFICATION ENVELOPE</b><br/>Last day for a voter who did not sign the vote-by-mail ballot identification envelope to either sign the identification envelope at the office of the county elections official or complete and submit and "unsigned ballot statement."</p>  | <p>§ 3019</p>                        |

## June 7, 2016, Presidential Primary Election Calendar

- 6/17/16  
(E+10)      **143. REPUBLICAN PRESIDENTIAL WRITE-IN CANDIDATE — LIST OF DELEGATES**  
Last day for a Republican presidential write-in candidate who received a plurality of the votes cast to file a list of delegates with the Secretary of State. If the candidate fails to file the list, the state central committee shall file by June 27, 2016 (E+20), a list of delegates who shall go to the convention unpledged to any candidate.      §§ 6442, 6443
- 6/17/16  
(E+10)      **144. PROVISIONAL BALLOTS OF EMERGENCY WORKERS**  
If the Governor declares a state of emergency, a provisional ballot cast by an emergency worker outside of his or her home precinct must be received on or before this date by the county elections official where the voter is registered. The elections official shall transmit for processing any ballot cast no later than the close of polls on Election Day by an emergency worker in a declared state of emergency, including any materials necessary to process the ballot, to the elections official in the county where the voter is registered to vote.      § 14313
- 6/21/16  
(E+14)      **145. AMENDED CANDIDATE INTENTION STATEMENT — STATE SENATOR AND MEMBER OF THE ASSEMBLY — DEADLINE**  
If the voluntary expenditure ceiling is rejected in the primary, but not exceeded during that election, the Candidate Statement of Intention (Form 501) may be amended to accept the expenditure ceiling for the general. The amended Form 501 must be filed within 14 days following the primary election.      Gov. Code §§ 85200, 85401
- 6/27/16  
(E+20)      **146. REPUBLICAN PRESIDENTIAL WRITE-IN CANDIDATE — FAILURE TO FILE LIST OF DELEGATES**  
Last day for the state central committee to file the list of delegates if the presidential write-in candidate receiving a plurality of the votes cast fails to file a list of delegates by June 17, 2016 (E+10).      § 6443
- 6/30/16  
(E+23)      **147. REPORT OF REGISTRATION — 15-DAY STATEWIDE REPORT PUBLISHED**  
On or before this date, the Secretary of State will release a statewide report showing the number of registered voters, by political party preference, in the state, each county, and each political subdivision thereof. This report is based on the summary statements sent by each county elections official by May 31, 2016 (E-7).      § 2187(b) & (d)(3)
- 7/5/16  
(E+28)      **148. STATEMENT OF RESULTS TO SECRETARY OF STATE — PRESIDENTIAL DELEGATES**  
By this date, the county elections official shall send to the Secretary of State, in an electronic format, one complete copy of the returns for all persons voted for at the presidential primary for delegates to the national conventions.      § 15375(c)

## June 7, 2016, Presidential Primary Election Calendar

- |                   |  |   |
|-------------------|--|---|
| 7/5/16<br>(E+28)  | <p><b>149. CERTIFIED DELEGATE ORDER —LIBERTARIAN AND PEACE AND FREEDOM PARTIES</b></p> <p>Last day for the chairperson of each group of candidates for delegate to certify to the Secretary of State the order in which the delegates of each group are to be certified as elected.</p>  | § 6842  |
| 7/7/16<br>(E+30)  | <p><b>150. OFFICIAL CANVASS DEADLINE</b></p> <p>No later than this date, the county elections official must complete the canvass, certify its results, and submit it to the board of supervisors.</p> <p>Suggested deadline for the board of supervisors to declare the winners for each office and the results of each measure under its jurisdiction. The county elections official shall make and deliver to each person elected or nominated under its jurisdiction a certificate of election or nomination.</p> | <p>§ 15372</p> <p>§§ 15400, 15401</p>                   |
| 7/7/16<br>(E+30)  | <p><b>151. REPUBLICAN PARTY CANDIDATES SUBMIT ALTERNATE DELEGATES</b></p> <p>Last day for a presidential candidate or his or her designee to submit to the Secretary of State a list of alternate delegates by congressional district to the Republican National Convention.</p>   | § 6461(b)   |
| 7/8/16<br>(E+31)  | <p><b>152. STATEMENT OF RESULTS TO SECRETARY OF STATE</b></p> <p>By this date, the county elections official shall send to the Secretary of State, in an electronic format, one complete copy of the returns for all candidates voted for at the primary election, including United States Senator, United States Representative in Congress, State Senator, and Member of the State Assembly, and for all statewide ballot measures.</p>  | §§ 15374, 15375   |
| 7/9/16*<br>(E+32) | <p><b>153. PRESIDENTIAL PRIMARY RESULTS COMPILED BY THE SECRETARY OF STATE</b></p> <p>No later than this date, the Secretary of State shall compile and file a statement of the canvassed primary election returns of all parties filed by the county elections officials, and shall issue certificates to the presidential nominees and to the delegates.</p>   | <p>§§ 6220, 6420-6422<br/>6640, 6641, 6843<br/>6844</p> |
| 7/14/16<br>(E+37) | <p><b>154. PRESIDENTIAL WRITE-IN CANDIDATE — LIST OF DELEGATES — AMERICAN INDEPENDENT, LIBERTARIAN, AND PEACE AND FREEDOM PARTIES</b></p> <p>Last day for any qualified presidential write-in candidate to file a list of delegates with the Secretary of State. If the candidate fails to file the list, the state central committee shall file by July 24, 2016** (E+47), a list of delegates who shall go to the convention unpledged to any candidate.</p>   | <p>§§ 6642, 6643, 6845<br/>6846</p>                     |
| 7/15/16<br>(E+38) | <p><b>155. STATEMENT OF THE VOTE</b></p> <p>Last day for the Secretary of State to prepare, certify, and file a statement of the vote from the compiled election returns.</p>  | § 15501   |



## June 7, 2016, Presidential Primary Election Calendar

7/15/16 (E+38) [Suggested Date]	156. <b>DELEGATE CERTIFICATION — LIBERTARIAN-AND PEACE AND FREEDOM PARTIES</b> The tentative date for the Secretary of State to certify to the chairperson of the state central committee and to the chairperson of record of each county central committee the final list of national convention delegates.	§ 6846
7/18/16 (E+41) [Suggested Date]	157. <b>CERTIFICATES OF NOMINATION — ALL VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATES</b> Secretary of State shall issue certificates of nomination to candidates nominated for United States Senator, United States Representative in Congress, State Senator, and Member of the State Assembly.	§§ 8147, 15504
7/22/16 (E+45)	158. <b>GREEN PARTY COUNTY COUNCIL CERTIFICATION</b> Last day for Secretary of State to send a certified list of elected members of county councils to county elections officials and the party liaison. Secretary of State shall also send a notice to each elected member.	§ 7922 <sup>1</sup>
7/24/16** (E+47)	159. <b>PRESIDENTIAL WRITE-IN CANDIDATE — FAILURE TO FILE LIST OF DELEGATES — AMERICAN INDEPENDENT, LIBERTARIAN, AND PEACE AND FREEDOM PARTIES</b> Last day for the state central committee to file the list of delegates if the presidential write-in candidate receiving a plurality of the votes cast fails to file a list of delegates by July 14, 2016 (E+37).	§§ 6643, 6846
7/31/16** (E+54)	160. <b>CAMPAIGN STATEMENT — SEMIANNUAL</b> Last day to file semiannual campaign statements for candidates, committees, and slate mailer organizations.	Gov. Code §§ 84200, 84218
11/12/16* (E+158)	161. <b>SUPPLEMENT TO THE STATEMENT OF THE VOTE</b> Last day for the Secretary of State to compile a supplement to the statement of the vote showing the number of votes cast in each county, city, assembly district, state senatorial district, congressional district, and supervisorial district for each candidate for the offices of United States President and United States Senator and on each statewide ballot measure.	§ 15502

\* Date falls on a weekend or state holiday; it does not move forward to the next business day.

\*\* Date falls on a weekend or state holiday; it moves forward to the next business day.

<sup>1</sup> All code references are to the California Elections Code unless otherwise stated.

<sup>2</sup> Assembly Bill (AB) 477 (Mullin), Chapter 726, Statutes of 2015, adds provisions to the Elections Code for Green Party presidential and county council elections and allows a voter to submit an "unsigned ballot statement" to county elections officials if the voter's vote-by-mail ballot identification envelope was unsigned. AB 477 will become effective January 1, 2016.

<sup>3</sup> Elections Code section 3114 and the federal MOVE Act require that ballots be sent to military and overseas voters not later than 45 days prior to an election. This E-45 date must be adhered to and does not move forward even though the date falls on a Saturday.

<sup>4</sup> Assembly Bill (AB) 594 (Gordon), Chapter 364, Statutes of 2015, makes changes to the Political Reform Act of 1973. AB 594 will become effective January 1, 2016.

# EXHIBIT B

**SUMMARY OF NOVEMBER 8, 2016,  
GENERAL ELECTION CALENDAR**

*(Numbers in parentheses indicate the item number in the text of the calendar.)*

**Ballot Measures**

Initiative Measure Qualification Deadline (#7).....	Jun 30
Legislative Measure Qualification Deadline (#8).....	Jun 30
Statewide Ballot Measures –	
Ballot Label and Title and Summary Deadline (#10) .....	Jul 8
Statewide Ballot Measures – News Release Inviting Arguments (#11).....	Jul 11
Statewide Ballot Measures – Argument Submission Deadline (#12).....	Jul 12
Statewide Ballot Measures –	
Selection and Exchange of Arguments For or Against Measures (#13) .....	Jul 17*
Statewide Ballot Measures – Analysis, “Yes” and “No” Statements, Bond Statement, and Text Deadline (#16) .....	Jul 21
Statewide Ballot Measures –	
Rebuttal Argument and Summary Information Deadline (#18).....	Jul 21

**Ballots**

Political Party Endorsements for Voter-Nominated Offices Deadline (#31) .....	Aug 17
Military or Overseas Voter Ballot Applications (#41) .....	Sep 9*
Military or Overseas Voter Ballots <sup>1</sup> (#46).....	Sep 24*
County Sample Ballot and Polling Place Notice Mailing (#51, #59).....	Sep 29-Oct 18
Vote-by-Mail Ballot Application (#57, #78).....	Oct 10*-Nov 1
Vote-by-Mail Ballot Application for Out-of-State Emergency Workers (#58, #93).....	Oct 10*-Nov 8
Computer Processing of Vote-by-Mail Ballots (#68).....	Oct 25
Military or Overseas Voter Recalled to Service (#80, #82).....	Nov 2-Nov 7
Request for Vote-by-Mail Ballot – Late Conditions (#81, #92).....	Nov 2-Nov 8
Manual Processing of Vote-by-Mail Ballots (#83).....	Nov 7
Hand Delivered or Faxed Vote-by-Mail Ballots	
Returned in Order to be Counted – Deadline (#88) .....	Nov 8
Military or Overseas Voters Late Conditions (#91).....	Nov 8
Mailed Vote-by-Mail Ballots – Last Day to be Counted (#98).....	Nov 11**
Vote-by-Mail Ballots — Unsigned Identification Envelope <sup>2</sup> (#99).....	Nov 16
Provisional Ballots of Emergency Workers (#100).....	Nov 18

**Campaign Finance**

Verification of Independent Expenditures (#3) .....	Jun 3
\$5,000 Report (Electronic Filers Only) (#4, #24, #96).....	Jun 8-Aug 9, Nov 9
Campaign Statement – Semiannual (#21).....	Jul 31**
Election Cycle Reports – 24-hr. Payment Report	
(Slate Mailer Organizations) (#25, #85) .....	Aug 10-Nov 7
Election Cycle Reports – 24-hr. Contribution Report (#26, #89).....	Aug 10-Nov 8
Election Cycle Reports –	
24-hr. Independent Expenditure Report (#27, #90).....	Aug 10-Nov 8
Issue Advocacy Report (Electronic Filers Only) (#49, #84) .....	Sep 24**-Nov 7
First Pre-Election Statement (#50).....	Sep 29

**SUMMARY OF NOVEMBER 8, 2016,  
GENERAL ELECTION CALENDAR**

*(Numbers in parentheses indicate the item number in the text of the calendar.)*

**24-hr. Statement of Organization –**

- Recipient Committees and State Mailer Organizations (#62, #86) .....Oct 23\*\*-Nov 7
- Second Pre-Election Statement (#71) .....Oct 27
- Quarterly Statement by Ballot Measure Committees (#75).....Oct 31
- Campaign Statement – Semiannual (#109)..... Jan 31, 2017

**Candidates**

**Independent Presidential Elector Candidates –**

- Nomination Papers (#1, #28)..... Apr 29-Aug 12

**Independent Presidential Elector Candidates –**

- Nomination Papers Forwarded to Secretary of State (#2, #39) ..... May 23-Sep 5\*\*

- Amended Candidate Intention Statement (#6)..... Jun 21

- Candidate Statements in the County Sample Ballot (#14, #29).....Jul 18-Aug 12

**Candidate Statements in the State Voter Information Guide Deadline –**

- United States Senator (#15)..... Jul 20

- Change of Candidate's Designation on Ballot (#22).....Aug 2

**Independent Presidential Elector Candidates –**

- Results of Written Certification – Random Verification (#33).....Aug 18

- Notice to Candidates – All Voter-Nominated, Non-Presidential Candidates (#34).....Aug 27\*

- Death of a Candidate – Name on Ballot (#36).....Sep 1

- Certified List of Candidates and Rotation List (#37).....Sep 1

- Presidential Candidate Statements on the Secretary of State's Website Deadline (#38) .....Sep 1

**Independent Presidential Elector – Nomination Signatures –**

- Written Certification – 100% Certification (#40).....Sep 5\*\*

- Presidential Elector Selection – Democratic and Republican Parties (#53)..... Oct 1\*\*

- Presidential Elector Selection – American Independent, Green<sup>2</sup>,  
Libertarian, and Peace and Freedom Parties (#54) ..... Oct 3

- Last Day for Presidential Write-In Candidate Declarations (#67)..... Oct 25

- Certified List of Presidential Write-In Candidates (#72)..... Oct 28

- Certificate of Election – Presidential Electors (#105) ..... Dec 10\*

- Certificate of Election – All Voter-Nominated, Non-Presidential Candidates (#107)..... Dec 16

- Electoral College Convenes (#108)..... Dec 19

**Canvass**

- Notice of Early Tabulation (#55)..... Oct 9\*

- Computer Processing of Vote-by-Mail Ballots (#68).....Oct 25

- Computer Program to Secretary of State (#79).....Nov 1

- Manual Processing of Vote-by-Mail Ballots (#83).....Nov 7

- General Election Day (#87) .....Nov 8

- Semifinal Official Canvass (#95).....Nov 8

- Official Canvass (#97, #103).....Nov 10-Dec 8

- Statement of Results to Secretary of State – Presidential Electors (#102)..... Dec 6

**SUMMARY OF NOVEMBER 8, 2016,  
GENERAL ELECTION CALENDAR**

0201

*(Numbers in parentheses indicate the item number in the text of the calendar.)*

Statement of Results to Secretary of State (#104) ..... Dec 9  
Statement of the Vote (#106)..... Dec 16  
Supplement to the Statement of the Vote (#113)..... April 15, 2017\*

**Military or Overseas Voters**

Military or Overseas Voter Ballot Applications (#41) .....Sep 9\*  
Military or Overseas Voter Ballots<sup>1</sup> (#46) .....Sep 24\*  
Military or Overseas Voter Recalled to Service (#80, #82)..... Nov 2-Nov 7  
Hand Delivered or Faxed Vote-by-Mail Ballots  
    Returned in Order to be Counted – Deadline (#88) .....Nov 8  
Military or Overseas Voters Late Conditions (#91).....Nov 8

**Notifications and Publications**

Governor's Proclamation – Issuance (#5) ..... Jun 13  
Randomized Alphabet Drawing – Notice (#23) .....Aug 8  
Last Day State Voter Information Guide Available for Public Examination  
    and Copy Delivered to the State Printer (#30) .....Aug 15  
Randomized Alphabet Drawing (#32).....Aug 18  
Notice to Candidates – All Voter-Nominated, Non-Presidential Candidates (#34) .....Aug 27\*  
Report of Registration – 124-Day Statewide Report Published<sup>3</sup> (#35).....Aug 28  
Certified List of Candidates and Rotation List (#37).....Sep 1  
State Voter Information Guide Mailing (#52, #60) ..... Sep 29-Oct 18  
Precinct Board Members and Polling Places (#56) ..... Oct 10\*  
Report of Registration – 60-Day Statewide Report Published<sup>3</sup> (#61) ..... Oct 19  
Bilingual Precinct Board Members (#66)..... Oct 25  
Publication of Tally Center Location (#73)..... Oct 29\*  
State Voter Information Guide Supplemental Mailing by County – Deadline (#74) ..... Oct 29\*  
Report of Registration – 15-Day Statewide Report Published<sup>3</sup> (#101) ..... Dec 1  
Certificate of Election – Presidential Electors (#105) ..... Dec 10\*  
Statement of the Vote (#106)..... Dec 16  
Certificate of Election – All Voter-Nominated, Non-Presidential Candidates (#107)..... Dec 16  
Report of Registration –  
    Odd-Numbered Year Statewide Report Published<sup>3</sup> (#112)..... Mar 10, 2017  
Supplement to the Statement of the Vote (#113) ..... April 15, 2017\*

**Voter Information Guide**

Initiative Measure Qualification Deadline (#7)..... Jun 30  
Legislative Measure Qualification Deadline (#8)..... Jun 30  
Statewide Ballot Measures – News Release Inviting Arguments (#11) ..... Jul 11  
Statewide Ballot Measures – Argument Submission Deadline (#12)..... Jul 12  
Statewide Ballot Measures –  
    Selection and Exchange of Arguments For or Against Measures (#13) ..... Jul 17\*  
Statewide Ballot Measures – Analysis, “Yes” and “No” Statements,  
    Bond Statement, and Text Deadline (#16) ..... Jul 21

0202

**SUMMARY OF NOVEMBER 8, 2016,  
GENERAL ELECTION CALENDAR**

*(Numbers in parentheses indicate the item number in the text of the calendar.)*

Political Party Statement of Purpose Deadline (#17) .....	Jul 21
Statewide Ballot Measures –	
Rebuttal Argument and Summary Information Deadline (#18).....	Jul 21
State Voter Information Guide Available for Public Examination (#19, #30) .....	Jul 26-Aug 15
Last Day State Voter Information Guide Available for Public Examination and	
Copy Delivered to the State Printer (#30) .....	Aug 15
Voter Registration Information for	
State Voter Information Guide Mailing (#42, #44).....	Sep 9*-Sep 19
State Voter Information Guides Furnished to Counties (#47) .....	Sep 24*
State Voter Information Guides to State and Local Officials and	
Public Institutions (#48) .....	Sep 24*
State Voter Information Guide Mailing (#52, #60) .....	Sep 29-Oct 18
State Voter Information Guide Supplemental Mailing by County – Deadline (#74) .....	Oct 29*

**Voter Registration**

Report of Registration – 124-Day County Report <sup>3</sup> (#9, #20) .....	Jul 7-Jul 29
Report of Registration – 124-Day Statewide Report Published <sup>3</sup> (#35) .....	Aug 28
Military or Overseas Voter Ballot Applications (#41) .....	Sep 9*
Report of Registration – 60-Day County Report <sup>3</sup> (#43, #45) .....	Sep 9*-Sep 19
Voter Registration Files to the Secretary of State for	
State Voter Information Guide Mailing (#44).....	Sep 19
Report of Registration – 60-Day Statewide Report Published <sup>3</sup> (#61) .....	Oct 19
Voter Registration Deadline for the General Election (#63) .....	Oct 24
Notice of Change of Address Within State <sup>3</sup> (#64).....	Oct 24
Report of Registration – 15-Day County Report <sup>3</sup> (#65, #77) .....	Oct 24-Nov 1
New Resident Registration Period (#69, #76) .....	Oct 25-Nov 1
New Citizen Registration Period (#70, #94).....	Oct 25-Nov 8
Military or Overseas Voters Recalled to Service (#80, #82).....	Nov 2-Nov 7
Vote-by-Mail Ballots – Unsigned Identification Envelope <sup>2</sup> (#99) .....	Nov 16
Report of Registration – 15-Day Statewide Report Published <sup>3</sup> (#101) .....	Dec 1
Report of Registration –	
Odd-Numbered Year County Report <sup>3</sup> (#110, #111) .....	Feb 10-Mar 1, 2017
Report of Registration –	
Odd-Numbered Year Statewide Report Published <sup>3</sup> (#112).....	Mar 10, 2017

\* Date falls on a weekend or state holiday; it does not move forward to the next business day.

\*\* Date falls on a weekend or state holiday; it moves forward to the next business day.

<sup>1</sup> Elections Code section 3114 and the federal MOVE Act require that ballots be sent to military and overseas voters not later than 45 days prior to an election. This E-45 date must be adhered to and does not move forward even though the date falls on a Saturday.

**SUMMARY OF NOVEMBER 8, 2016,  
GENERAL ELECTION CALENDAR**

<sup>2</sup> Assembly Bill (AB) 477 (Mullin), Chapter 726, Statutes of 2015, adds provisions to the Elections Code for Green Party presidential and county council elections and allows a voter to submit an "unsigned ballot statement" to county elections officials if the voter's vote-by-mail ballot identification envelope was unsigned. AB 477 will become effective January 1, 2016.

<sup>3</sup> Assembly Bill (AB) 1020 (Ridley-Thomas), Chapter 728, Statutes of 2015, amends provisions of the Elections Code as they relate to the Report of Registration, among other things. AB 1020 will become operative once the Secretary of State certifies that the state has a statewide voter registration database that complies with the requirements of the Help America Vote Act of 2002 (52 U.S.C. § 20901 et seq.).

**November 8, 2016, General Election Calendar**

- 4/29/16  
to  
8/12/16  
(E-193 to E-88)

1. **INDEPENDENT PRESIDENTIAL ELECTOR CANDIDATES — NOMINATION PAPERS**  
 Period in which independent Presidential Elector candidates shall circulate nomination papers to obtain signatures and submit them to the county elections official for examination. § 8403(a)(2)<sup>1</sup>
  
- 5/23/16  
to  
9/5/16\*\*  
(E-169 to E-64)

2. **INDEPENDENT PRESIDENTIAL ELECTOR CANDIDATES — NOMINATION PAPERS FORWARDED TO SECRETARY OF STATE**  
 Period in which county elections officials must deliver the nomination papers of independent Presidential Elector candidates to the Secretary of State for filing. Cal. Code Regs.,  
tit. 2, §20090;  
§ 8403(b)
  
- 6/3/16  
(E-158)

3. **VERIFICATION OF INDEPENDENT EXPENDITURES**  
 The Verification of Independent Expenditures (Form 462) is used to identify an individual responsible for ensuring that the campaign committee's independent expenditures were not coordinated with the listed candidate or measure committee (or the opponent) and that the committee will report all contributions and reimbursements as required by law. An independent expenditure is not subject to state or local contribution limits. This form must be emailed to the Fair Political Practices Commission within 10 days of an independent expenditure of \$1,000 or more. Gov. Code § 84213

**NOTE:** The filing period for this entry begins the day following the primary election; however, for purposes of this calendar the E-date shall begin at E-158.
  
- 6/8/16  
to  
8/9/16  
(E-153 to E-91)

4. **\$5,000 REPORT (ELECTRONIC FILERS ONLY)**  
 Candidates for state office and their controlled committees and committees primarily formed to support or oppose state measures must file a disclosure report within 10 business days if \$5,000 or more is received from a single source outside the 90-day election cycle. Gov. Code  
§§ 84204.5,  
85309(c) & (d)

Recipient committees must file a disclosure report within 10 business days of making a contribution of \$5,000 or more or an independent expenditure of \$5,000 or more to support or oppose the qualification or passage of a single state ballot measure.
  
- 6/13/16  
(E-148)

5. **GOVERNOR'S PROCLAMATION — ISSUANCE**  
 On or before this date, the Governor shall issue a proclamation calling the general election and shall state the time of the election and the offices to be filled and transmit a copy of the proclamation to the board of supervisors of each county. The Secretary of State will send an informational copy of the proclamation to each county elections official § 12000
  
- 6/21/16  
(E-140)  
[E+14 from primary election]

6. **AMENDED CANDIDATE INTENTION STATEMENT**  
 Last day to file an amended Candidate Intention Statement (Form 501) to accept the expenditure ceiling for the general election if the voluntary expenditure ceiling is rejected in the primary election, but not exceeded during that election. The filing of an amended Form 501 allows State Senator and Member of the Assembly candidates to qualify to purchase space for a 250-word candidate statement in the official sample ballot (s) of the county or counties in their jurisdiction. Gov. Code  
§§ 85200, 85400,  
85401, 85600,  
85601



- |   |  |                                   |
|---|--|-----------------------------------|
| 6/30/16<br>(E-131)  | <b>7. INITIATIVE MEASURE QUALIFICATION DEADLINE</b><br>Last day for an initiative measure to qualify for the general election ballot.  | Cal. Const. art. II,<br>§ 8(c)    |
| 6/30/16<br>(E-131)  | <b>8. LEGISLATIVE MEASURE QUALIFICATION DEADLINE</b><br>Last day for the Legislature to adopt a constitutional amendment, bond measure, or other legislative measure in order for the proposed measure to appear on the general election ballot.   | § 9040                            |
| 7/7/16<br>to<br>7/29/16<br>(E-124 to E-102)                       | <b>9. REPORT OF REGISTRATION – 124-DAY COUNTY REPORT</b><br>Period in which county elections officials shall prepare information and provide notice to the Secretary of State regarding the number of registered voters in their counties, by political party preference and each political subdivision thereof. This information is based on the number of persons registered as of July 7, 2016 (E-124).   | § 2187(c)(4) <sup>2</sup>         |
| 7/8/16<br>(E-123)<br>[Date designated by<br>Secretary of State]   | <b>10. STATEWIDE BALLOT MEASURES — BALLOT LABEL AND TITLE AND SUMMARY DEADLINE</b><br>The Attorney General is asked to provide, no later than this date, all official ballot labels and titles and summaries for the statewide ballot measures that have qualified for the general election so that the Secretary of State has sufficient time to translate the ballot labels and titles and summaries into any required languages prior to public display of the state Voter Information Guide.                       | §§ 9050, 9051,<br>9054, 13247     |
| 7/11/16<br>(E-120)  | <b>11. STATEWIDE BALLOT MEASURES — NEWS RELEASE INVITING ARGUMENTS</b><br>On or before this date, the Secretary of State will issue a general news release requesting voters to submit an argument in each case where either the argument for or against any statewide ballot measure has not ben prepared and filed.  | §§ 9060-9063                      |
| 7/12/16<br>(E-119)<br>[Date designated by<br>Secretary of State]  | <b>12. STATEWIDE BALLOT MEASURES — ARGUMENT SUBMISSION DEADLINE</b><br>Last day for the submittal to the Secretary of State of arguments for or against each qualified statewide ballot measure. Arguments shall not exceed 500 words. Once submitted, no argument may be changed or amendd.   | §§ 9041-9044,<br>9064, 9065, 9068 |
| 7/17/16*<br>(E-114)<br>[Date designated by<br>Secretary of State] | <b>13. STATEWIDE BALLOT MEASURES — SELECTION AND EXCHANGE OF ARGUMENTS FOR OR AGAINST MEASURES</b><br>On or before this date, the Secretary of State will select arguments for inclusion in the state Voter Information Guide where more than one has been submitted in favor of or against the same measure. Following the selection, the Secretary of State will exchange arguments with opposing authors and request rebuttal arguments and summary information, which shall be submitted by July 21, 2016 (E-110). | §§ 9067, 9069                     |

## November 8, 2016, General Election Calendar

- |  |  |  |
|--|--|--|
| <p>7/18/16<br/>to<br/>8/12/16<br/>(E-113 to E-88)</p>                      | <p><b>14. CANDIDATE STATEMENTS IN THE COUNTY SAMPLE BALLOT</b><br/>Period in which candidates for United States Representative in Congress, State Senator and Member of the Assembly may purchase space for a 250-word candidate statement in the voter information portion of the official sample ballot(s) of the county or counties in their jurisdiction. Candidates for State Senator and Member of the Assembly may purchase space for a candidate statement only if they have agreed to voluntary expenditure limits.</p>   | <p>Gov. Code<br/>§ 85601(c);<br/>§ 13307.5</p>         |
| <p>7/20/16<br/>(E-111)<br/>[Date designated by<br/>Secretary of State]</p> | <p><b>15. CANDIDATE STATEMENTS IN THE STATE VOTER INFORMATION GUIDE DEADLINE — UNITED STATES SENATOR</b><br/>Last day United States Senator candidates may purchase space for a 250-word candidate statement in the state Voter Information Guide and provide it to the Secretary of State.</p>  | <p>§ 9084(i)</p>                                       |
| <p>7/21/16<br/>(E-110)<br/>[Date designated by<br/>Secretary of State]</p> | <p><b>16. STATEWIDE BALLOT MEASURES — ANALYSIS, "YES" AND "NO" STATEMENTS, BOND STATEMENT, AND TEXT DEADLINE</b><br/>The Legislative Analyst and Legislative Counsel must provide, no later than this date, all official analyses, "Yes" and "No" statements, and texts of the statewide ballot measures that have qualified for the general election ballot, as well as a statement of bond debt, if necessary, so that the Secretary of State has sufficient time to prepare copy for public display and to translate the state Voter Information Guide into any required languages.</p> | <p>§§ 9085, 9087,<br/>9088, 9091</p>                   |
| <p>7/21/16<br/>(E-110)<br/>[Date designated by<br/>Secretary of State]</p> | <p><b>17. POLITICAL PARTY STATEMENT OF PURPOSE DEADLINE</b><br/>Last day for political parties to submit statements of purpose, not to exceed 200 words, for inclusion in the state Voter Information Guide.</p>   | <p>§ 9084(e)</p>                                       |
| <p>7/21/16<br/>(E-110)<br/>[Date designated by<br/>Secretary of State]</p> | <p><b>18. STATEWIDE BALLOT MEASURES — REBUTTAL ARGUMENT AND SUMMARY INFORMATION DEADLINE</b><br/>Last day for selected argument authors to submit rebuttal arguments and summary information for or against ballot measures qualified for the general election ballot. Rebuttal arguments shall not exceed 250 words, and summary information shall not exceed 50 words.</p>   | <p>§§ 9069,<br/>9084(c) &amp; (e)</p>                  |
| <p>7/26/16<br/>to<br/>8/15/16<br/>(E-105 to E-85)</p>                      | <p><b>19. STATE VOTER INFORMATION GUIDE AVAILABLE FOR PUBLIC EXAMINATION</b><br/>Period in which the state Voter Information Guide for the general election will be available for public examination and in which any elector may seek a writ of mandate to amend or delete any portion thereof prior to its printing.</p>   | <p>Gov. Code § 88006;<br/>§§ 9054, 9092,<br/>13282</p> |
| <p>7/29/16<br/>(E-102)</p>   | <p><b>20. REPORT OF REGISTRATION — 124-DAY COUNTY INFORMATION DUE</b><br/>On or before this date, county elections officials shall prepare information and provide notice to the Secretary of State regarding the number of voters in their counties registered as of July 7, 2016 (E-124).</p>  | <p>§ 2187(c)(4)<sup>2</sup></p>                        |

## November 8, 2016, General Election Calendar

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| 7/31/16**<br>(E-100)                      | <p><b>21. CAMPAIGN STATEMENT — SEMIANNUAL</b><br/>Last day to file semiannual campaign statements with the Political Reform Division, if required, by all candidates, organizations, committees, and slate mailers.</p>  | Gov. Code<br>§§ 84200, 84218                         |
| 8/2/16<br>(E-98)                          | <p><b>22. CHANGE OF CANDIDATE'S DESIGNATION ON BALLOT</b><br/>Last day that any candidate may request in writing a different ballot designation than that used at the primary election. The written request shall be accompanied by a ballot designation worksheet. This request should be made to <b>both</b> the Secretary of State and the county elections official.</p>   | Cal. Code Reg.,<br>tit. 2, § 20711(e);<br>§ 13107(e) |
| 8/8/16<br>(E-92)                          | <p><b>23. RANDOMIZED ALPHABET DRAWING — NOTICE</b><br/>Last day for the Secretary of State to notify the news media and other interested parties of the place of the randomized alphabet drawing to be held at 11:00 a.m. on August 18, 2016 (E-82).</p>   | § 13112(b)(1)(C)<br>& (c)                            |
| 8/9/16<br>(E-91)                          | <p><b>24. \$5,000 REPORT (ELECTRONIC FILERS ONLY) — PERIOD ENDS</b><br/>Last day for candidates for state office and their controlled committees and committees primarily formed to support or oppose state measures to file a disclosure report within 10 business days if \$5,000 or more is received from a single source outside the 90-day election cycle.</p> <p>Recipient committees must file a disclosure report within 10 business days of making a contribution of \$5,000 or more OR an independent expenditure of \$5,000 or more to support or oppose the qualification or passage of a single state ballot measure.</p>   | Gov. Code<br>§§ 84204.5, 85309(c)<br>& (d)           |
| 8/10/16<br>to<br>11/7/16<br>(E-90 to E-1) | <p><b>25. ELECTION CYCLE REPORTS — 24-HR. PAYMENT REPORT (SLATE MAILER ORGANIZATIONS) — PERIOD BEGINS</b><br/>During the 90 days immediately preceding an election, each slate mailer organization that receives a payment of \$2,500 or more from a single source for the purpose of supporting or opposing any candidate or measure in a slate mailer must report the payment within 24 hours to the Secretary of State's office by online or electronic transmission only. (Deadlines are extended to the next business day when they fall on a Saturday, Sunday, or an official state holiday, except for the weekend before an election.) Such payments may be reported on Slate Mailer Late Payment Report (Form 498).</p> | Gov. Code<br>§§ 84203, 84220,<br>85204               |

- 8/10/16  
to  
11/8/16  
(E-90 to E)
26. **ELECTION CYCLE REPORTS — 24-HR. CONTRIBUTION REPORT— PERIOD BEGINS**  
During the 90 days immediately preceding an election and including Election Day, the following contributions that total in the aggregate of \$1,000 or more must be reported within 24 hours to the Secretary of State's office by online or electronic transmission only: Contributions made to a candidate, officeholder, political party committee, or a committee primarily formed to support or oppose a candidate or ballot measure; contributions received by a candidate, officeholder, a political party committee, a candidate in a CALPERS or CALSTRS election, or a committee primarily formed to support or oppose a candidate or ballot measure. (Deadlines are extended to the next business day when they fall on a Saturday, Sunday, or an official state holiday, except for the weekend before an election.) Recipients of non-monetary or in-kind contributions must file within 48 hours of the date the contribution was received. Such contributions may be reported on a Contribution Report (Form 497).
- Gov. Code  
§§ 82036, 84203,  
84203.3, 85204,  
85309
- 8/10/16  
to  
11/8/16  
(E-90 to E)
27. **ELECTION CYCLE REPORTS — 24-HR. INDEPENDENT EXPENDITURE REPORT — PERIOD BEGINS**  
During the 90 days immediately preceding an election and including Election Day, all candidates and committees that make an independent expenditure of \$1,000 or more to support or oppose a single candidate for elective state office or a single state ballot measure must report the expenditure within 24 hours to the Secretary of State's office by online or electronic transmission only. For independent expenditures made in connection with a CalPERS or CalSTRS election, a copy must also be filed with the relevant board office. (Deadlines for 24-hour reporting of independent contributions which fall on a Saturday, Sunday, or an official state holiday are NOT extended to the next business day.) Such independent expenditure reports may be reported on an Independent Expenditure Report (Form 496).
- Gov. Code  
§§ 82036.5, 84204,  
85204
- 8/12/16  
(E-88)  
[5:00 p.m.]
28. **INDEPENDENT PRESIDENTIAL ELECTOR CANDIDATES — NOMINATION PAPERS FILING DEADLINE**  
No later than 5:00 p.m. on this day, all independent Presidential Elector candidates must deliver to the county elections official for filing their nomination papers.
- § 8403(a)(2)
- 8/12/16  
(E-88)
29. **CANDIDATE STATEMENTS IN THE COUNTY SAMPLE BALLOT DEADLINE**  
Last day candidates for United States Representative in Congress, State Senator and Member of the Assembly may purchase space for a 250-word candidate statement in the voter information portion of the official sample ballot(s) of the county or counties in their jurisdiction. Candidates for State Senator and Member of the Assembly may purchase statement space only if they have agreed to voluntary expenditure limits.
- Gov. Code  
§ 85601(c);  
§ 13307.5

- 8/15/16  
(E-85)
30. **LAST DAY STATE VOTER INFORMATION GUIDE AVAILABLE FOR PUBLIC EXAMINATION AND COPY DELIVERED TO THE STATE PRINTER**  
Last day the state Voter Information Guide for the general election will be available for public examination prior to printing. Last day for the Secretary of State to deliver copy for preparation of the state Voter Information Guide to the Office of State Publishing. Gov. Code § 88006; §§ 9054, 9082 9092, 13282
- 8/17/16  
(E-83)
31. **POLITICAL PARTY ENDORSEMENTS FOR VOTER-NOMINATED OFFICES DEADLINE**  
Last day for the chairperson of any qualified political party to submit to the county elections official a list of all candidates for voter-nominated office who will appear on any ballot in the county in question, and who have been endorsed by the party. The county elections official shall print any such list that is timely received in the official sample ballot. § 13302(b)
- 8/18/16  
(E-82)  
[11:00 a.m.]
32. **RANDOMIZED ALPHABET DRAWING**  
The Secretary of State shall conduct the randomized alphabet drawing at 11:00 a.m. and mail the results immediately to county elections officials so that they may determine the order in which the candidates shall appear on the general election ballot. § 13112(b)(1)(C)
- 8/18/16  
(E-82)
33. **INDEPENDENT PRESIDENTIAL ELECTOR CANDIDATES — RESULTS OF WRITTEN CERTIFICATION — RANDOM VERIFICATION**  
Last day for the Secretary of State to compute the number of valid signatures submitted for each independent Presidential Elector candidate's nomination paper, to notify the election officials of the results, and to determine whether further action is necessary. Cal. Code Reg., tit. 2, §§ 20089(c), 20090; § 8403
- 8/27/16\*  
(E-73)
34. **NOTICE TO CANDIDATES — ALL VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATES**  
On or before this day the Secretary of State shall notify each candidate for voter-nominated, non-presidential office of the names, addresses, offices, ballot designations, and party preferences of all other persons whose names are to appear on the general election ballot. § 8147.5
- 8/28/16  
(E-72)
35. **REPORT OF REGISTRATION — 124-DAY STATEWIDE REPORT PUBLISHED**  
On or before this date the Secretary of State will release a statewide report showing the number of registered voters, by political party preference, in the state, each county, and each political subdivision thereof. This report is based on the information prepared and notification provided by each county elections official by July 29, 2016 (E-102). § 2187(c)(4)<sup>3</sup>

## November 8, 2016, General Election Calendar

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| 9/1/16<br>(E-68)   | 36. <b>DEATH OF A CANDIDATE — NAME ON BALLOT</b><br>Last day for the county elections official to remove a deceased candidate's name from the general election ballot.   | §§ 8803, 8810   |
| 9/1/16<br>(E-68)   | 37. <b>CERTIFIED LIST OF CANDIDATES AND ROTATION LIST</b><br>Last day for the Secretary of State to certify and send to each county elections official a list by public office showing the name, party preference (or lack of party preference), and ballot designation of every person who has received the nomination as a candidate for public office and is entitled to receive votes within the county at the general election.<br><br>By this day, the Secretary of State shall also provide to county elections officials a list of candidates for each county arranged according to the randomized alphabet drawn on August 18, 2016 (E-82).               | §§ 8148, 8149,<br>13111                                 |
| 9/1/16<br>(E-68)   | 38. <b>PRESIDENTIAL CANDIDATE STATEMENTS ON THE SECRETARY OF STATE'S WEBSITE — DEADLINE</b><br>Last day eligible presidential candidates may file a 250-word candidate statement with the Secretary of State's office for inclusion on the Secretary of State's website.   | § 9084(k)   |
| 9/5/16**<br>(E-64) | 39. <b>INDEPENDENT PRESIDENTIAL ELECTOR — NOMINATION PAPERS FORWARDED TO SECRETARY OF STATE</b><br>Last day for the county elections officials to deliver the nomination papers of independent Presidential Elector candidates to the Secretary of State for filing.   | Cal. Code Regs.,<br>tit. 2, § 20090;<br>§ 8403(b)       |
| 9/5/16**<br>(E-64) | 40. <b>INDEPENDENT PRESIDENTIAL ELECTOR — NOMINATION SIGNATURES — WRITTEN CERTIFICATION — 100% CERTIFICATION</b><br>Last day for the county elections official to report the results of checking each signature to a nomination paper. This reporting date is used if all counties in a district choose this method of verification or if the Secretary of State orders the checking of every signature.   | Cal. Code Regs.,<br>tit. 2, §§ 20089(d),<br>20090(b)(2) |
| 9/9/16*<br>(E-60)  | 41. <b>MILITARY OR OVERSEAS VOTER BALLOT APPLICATIONS</b><br>First day county elections officials may process applications for military or overseas voter ballots. Any applications received by county elections officials prior to this day shall be kept and processed on or after this day. If the applicant is not a resident of the county to which he or she has applied, the elections official receiving the application shall forward it immediately to the proper county.<br><br>A request for a vote-by-mail ballot from a military or overseas voter will be deemed an affidavit of registration and an application for permanent vote-by-mail status. | §§ 300(b), 321,<br>3105<br><br>§ 3102                   |

## November 8, 2016, General Election Calendar

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| <p>9/9/16*<br/>to<br/>9/19/16<br/>(E-60 to E-50)</p>           | <p><b>42. VOTER REGISTRATION FILES TO THE SECRETARY OF STATE FOR STATE VOTER INFORMATION GUIDE MAILING</b><br/>Period in which county elections officials shall prepare and provide notice to the Secretary of State by September 19, 2016 (E-50) regarding voters registered as of September 9, 2016 (E-60).</p>  | <p>§ 9094(a)</p>  |
| <p>9/9/16*<br/>to<br/>9/19/16<br/>(E-60 to E-50)</p>           | <p><b>43. REPORT OF REGISTRATION — 60-DAY COUNTY REPORT</b><br/>Period in which county elections officials shall prepare information and provide notice to the Secretary of State regarding the number of registered voters in their counties, by political party preference and each political subdivision thereof. This information is based on the number of persons registered as of September 9, 2016 (E-60).</p>                   | <p>§ 2187(a) &amp; (c)(5)<sup>2</sup></p>                           |
| <p>9/19/16<br/>(E-50)</p>                                      | <p><b>44. VOTER REGISTRATION FILES TO THE SECRETARY OF STATE FOR STATE VOTER INFORMATION GUIDE MAILING</b><br/>Last day for county elections officials to send the Secretary of State a copy of their load files of all voters registered as of September 9, 2016 (E-60). The copy of the voter registration file should reflect the results of the pre-election residency confirmation procedure.</p>                                   | <p>§§ 2220-2227,<br/>9094(a)</p>                                    |
| <p>9/19/16<br/>(E-50)</p>                                      | <p><b>45. REPORT OF REGISTRATION — 60-DAY COUNTY REPORT SUMMARIES DUE</b><br/>On or before this date, county elections officials shall prepare information and provide notice to the Secretary of State regarding the number of registered voters in their counties as of September 9, 2016 (E-60.)</p>  | <p>§ 2187(a) &amp; (c)(5)<sup>2</sup></p>                           |
| <p>9/24/16*<sup>3</sup><br/>(E-45)<br/>[Date fixed by law]</p> | <p><b>46. MILITARY OR OVERSEAS VOTER BALLOTS</b><br/>Last day for the county elections official to transmit ballots and balloting materials to absent military or overseas voters who have requested them by this date. If a military or overseas voter ballot application is received after this date, the county elections official shall transmit a ballot and balloting materials as soon as practicable.</p>                        | <p>52 U.S.C. § 20302<br/>(MOVE Act);<br/>§ 3114</p>                 |
| <p>9/24/16*<br/>(E-45)</p>                                     | <p><b>47. STATE VOTER INFORMATION GUIDES FURNISHED TO COUNTIES</b><br/>On or before this date, the Secretary of State shall furnish state Voter Information Guides to all counties for their supplemental mailings to persons who register between September 10, 2016 (E-59), and October 10, 2016 (E-29).</p>   | <p>§ 9094(b) &amp; (c)</p>  |
| <p>9/24/16*<br/>(E-45)</p>                                     | <p><b>48. STATE VOTER INFORMATION GUIDES TO STATE AND LOCAL OFFICIALS AND PUBLIC INSTITUTIONS</b><br/>On or before this date, the Secretary of State shall send a specified number of copies of the state Voter Information Guide to city and county elections officials, members of the Legislature, proponents of statewide ballot measures, public libraries, and educational institutions.</p>                                       | <p>§ 9096</p>   |
| <p>9/24/16**<br/>to<br/>11/7/16<br/>(E-45 to E-1)</p>          | <p><b>49. ISSUE ADVOCACY REPORT (ELECTRONIC FILERS ONLY)</b><br/>A disclosure report must be filed within 48 hours by anyone spending or promising to pay \$50,000 or more for a communication disseminated, broadcast or otherwise published within 45 days of an election, if the communication clearly identifies a candidate for state elective office but does not expressly advocate the election or defeat of that candidate.</p> | <p>Cal. Code Reg.,<br/>tit. 2, § 18539.2;<br/>Gov. Code § 85310</p> |

## November 8, 2016, General Election Calendar

<p>9/29/16 (E-40) [Date fixed by law]</p>	<p><b>50. FIRST PRE-ELECTION STATEMENT</b> Last day to file campaign statements for candidates and committees for the period ending September 24, 2016 (E-45).</p>	<p>Gov. Code §§ 84200.8, 84200.7(b)</p>
<p>9/29/16 to 10/18/16 (E-40 to E-21)</p>	<p><b>51. COUNTY SAMPLE BALLOT AND POLLING PLACE NOTICE MAILING</b> Period in which the county elections official shall mail a polling place notice and sample ballot to each registered voter who registered at least 29 days before the election, unless the voter has opted to receive them electronically. The polling place notice may state whether the polling place is accessible to the physically handicapped.  The county elections official shall also give sample ballots to the chairperson of the county central committee of each political party, shall mail a copy to each candidate, and shall post a copy of the sample ballot in a conspicuous place in the office.</p>	<p>§§ 13300.7, 13303, 13304  § 13302(a)</p>
<p>9/29/16 to 10/18/16 (E-40 to E-21)</p>	<p><b>52. STATE VOTER INFORMATION GUIDE MAILING</b> Period in which the Secretary of State shall mail state Voter Information Guides to all households in which voters were registered by September 9, 2016 (E-60). This mailing is based on the information provided by county elections officials to the Secretary of State by September 19, 2016 (E-50).</p>	<p>§ 9094(a)</p>
<p>10/1/16** (E-38) [Date fixed by law]</p>	<p><b>53. PRESIDENTIAL ELECTOR SELECTION - DEMOCRATIC AND REPUBLICAN PARTIES</b> Last day for Democratic and Republican parties to file the name, residence address, and business address of their respective Presidential Electors with the Secretary of State.</p>	<p>§§ 7100, 7300</p>
<p>10/3/16 (E-36) [Date designated by Secretary of State]</p>	<p><b>54. PRESIDENTIAL ELECTOR SELECTION— AMERICAN INDEPENDENT, GREEN, LIBERTARIAN, AND PEACE AND FREEDOM PARTIES</b> Last day for American Independent, Green, Libertarian, and Peace and Freedom parties to file the names and residence addresses of their respective Presidential Electors with the Secretary of State.</p>	<p>§§ 6864<sup>4</sup>, 7578, 7843</p>
<p>10/9/16* (E-30)</p>	<p><b>55. NOTICE OF EARLY TABULATION</b> On or before this date, the county governing body to notify the county elections official that certain offices or measures to be voted on are of more than ordinary public interest and will require an early tabulation and announcement.</p>	<p>§ 14440</p>
<p>10/10/16* (E-29)</p>	<p><b>56. PRECINCT BOARD MEMBERS AND POLLING PLACES</b> On or before this date, the county elections official to appoint the members of the precinct boards and designate the polling places.</p>	<p>§ 12286</p>
<p>10/10/16* to 11/1/16 (E-29 to E-7)</p>	<p><b>57. VOTE-BY-MAIL BALLOT APPLICATION</b> Period in which any registered voter may apply to the county elections official for a vote-by-mail ballot. Applications received before October 10, 2016 (E-29), shall be kept and processed during this application period.</p>	<p>§§ 3001, 3003, 3102</p>



# November 8, 2016, General Election Calendar

- 10/10/16\*  
to  
11/8/16  
(E-29 to E)
- 58. VOTE-BY-MAIL BALLOT APPLICATIONS FOR OUT-OF-STATE EMERGENCY WORKERS**  
Period within which, upon the declaration of an out-of-state emergency by the Governor and the issuance of an executive order authorizing an out-of-state emergency worker to cast a ballot outside of his or her home precinct, an out-of-state emergency worker may request and vote a vote-by-mail ballot, which must be delivered to the elections official by mail or by hand, on or before the close of polls on Election Day. §§ 336.7, 3021.5
- 10/18/16  
(E-21)
- 59. COUNTY SAMPLE BALLOT — MAILING DEADLINE**  
Last day for the county elections official to mail sample ballots to voters. §§ 13300.7, 13303, 13304
- 10/18/16  
(E-21)
- 60. STATE VOTER INFORMATION GUIDE MAILING DEADLINE**  
On or before this date, the Secretary of State, or the county elections official, if appropriate, to mail state Voter Information Guides to all households in which voters were registered by September 9, 2016 (E-60). § 9094(a)
- 10/19/16  
(E-20)
- 61. REPORT OF REGISTRATION — 60-DAY STATEWIDE REPORT PUBLISHED**  
On or before this date the Secretary of State will release a statewide report showing the number of registered voters, by political party preference, in the state, each county, and each political subdivision thereof. This report is based on the information prepared and the notification provided by each county elections official by September 19, 2016 (E-50). § 2187(b) & (c)(5)<sup>3</sup>
- 10/23/16\*\*  
to  
11/7/16  
(E-16 to E-1)
- 62. 24-HOUR STATEMENT OF ORGANIZATION — RECIPIENT COMMITTEES AND SLATE MAILER ORGANIZATIONS**  
A recipient committee or slate mailer organization that qualifies during the 16 days prior to an election in which it must file pre-election statements must file a Statement of Organization Recipient Committee (Form 410) within 24 hours of qualification with the filing officer who will receive the committee's original disclosure statements, by personal delivery, facsimile transmission, or guaranteed overnight delivery. Gov. Code §§ 84101, 84108
- 10/24/16  
(E-15)
- 63. VOTER REGISTRATION DEADLINE FOR THE GENERAL ELECTION**  
Last day to register to vote in the general election. The Voter Registration Form shall be mailed (postmarked by this date) or delivered to the county elections official by this date and is effective upon receipt. The Voter Registration Form may also be submitted by this date to the Department of Motor Vehicles or any National Voter Registration Act designated agency. 52 U.S.C. §§ 20301, 20501; §§ 300(b), 321, 2102, 2107, 3102, 3206
- Last day for military or overseas voters to register to vote.
- A request for a vote-by-mail ballot from a military or overseas voter, if postmarked on or before this date, will be deemed an affidavit of registration and an application for permanent vote-by-mail status. When a county elections official receives and approves a registration application from a military or overseas voter, the official must provide that voter with a vote-by-mail ballot for each subsequent election for federal office in the state unless the voter fails to vote in four consecutive statewide general elections.

- 10/24/16  
(E-15) 64. **NOTICE OF CHANGE OF ADDRESS WITHIN STATE** § 2119<sup>2</sup>  
Last day before the general election for any voter to send a notice or letter advising the county elections official of a change of address within the state. The notice or letter shall be mailed (postmarked by this date) or delivered to the county elections official by this date and is effective upon receipt. The notice or letter may also be submitted to the Department of Motor Vehicles or any National Voter Registration Act designated agency prior to the election. The county elections official shall correct the registration records accordingly. The notice or letter is in lieu of re-registering.
- 10/24/16  
to  
11/1/16  
(E-15 to E-7) 65. **REPORT OF REGISTRATION — 15-DAY COUNTY REPORT** § 2187(a) & (c)(6)<sup>3</sup>  
Period in which county elections officials shall prepare information and provide notice to the Secretary of State regarding the number of registered voters in their counties, by political party preference and in each political subdivision thereof. This information is based on the number of persons registered as of October 24, 2016 (E-15).
- 10/25/16  
(E-14) 66. **BILINGUAL PRECINCT BOARD MEMBERS** § 12303(d)  
Last day for county elections officials to prepare a list of precincts to which bilingual officers were appointed. A copy of this list shall be made available to the public.
- 10/25/16  
(E-14) 67. **LAST DAY FOR PRESIDENTIAL WRITE-IN CANDIDATE DECLARATIONS** §§ 8604, 8650-8653  
Last day for write-in presidential candidates (any group of individuals, equal in number to the number of Presidential Electors to which California is entitled) of all parties to file declarations with the Secretary of State in order to have write-in votes counted. No filing fee is required.
- 10/25/16  
(E-14) 68. **COMPUTER PROCESSING OF VOTE-BY-MAIL BALLOTS** § 15101  
Counties having the necessary computer capability may begin to process their vote-by-mail ballots on this date. This process may be completed to the point of placing the ballot information on a computer medium, but under NO circumstance may a vote count be accessed or released until 8:00 p.m. on November 8, 2016 (E).  
All other counties shall start to process vote-by-mail ballots at 5:00 p.m. on the day before the election, the results of which shall not be released before 8:00 p.m. on November 8, 2016 (E).
- 10/25/16  
to  
11/1/16  
(E-14 to E-7) 69. **NEW RESIDENT REGISTRATION PERIOD** §§ 332, 3400  
Any person who becomes a new resident after October 24, 2016 (E-15), may register to vote beginning on October 25, 2016 (E-14), and ending November 1, 2016 (E-7). This registration must be executed in the county elections office and the new resident shall vote a new resident's ballot in that office. A new resident is eligible to vote for only president and vice president.  
The ballots of new residents shall be received and canvassed at the same time and under the same procedure as vote-by-mail ballots. § 3405

10/25/16 to 11/8/16 (E-14 to E) [8:00 p.m.]	<p><b>70. NEW CITIZEN REGISTRATION PERIOD</b> A new citizen is eligible to register and vote at the office of, or at another location designated by, the county elections official at any time beginning on October 25, 2016 (E-14), and ending at the close of polls on November 8, 2016 (E).</p> <p>A new citizen registering to vote after the close of registration shall provide the county elections official with proof of citizenship prior to voting and shall declare that he or she has established residency in California.</p> <p>The ballots of new citizens shall be received and canvassed at the same time and under the same procedure as vote-by-mail ballots.</p>	<p>§§ 331, 3500</p> <p>§ 3501</p> <p>§ 3502</p>
10/27/16 (E-12)	<p><b>71. SECOND PRE-ELECTION STATEMENT</b> Last day to file campaign statements for candidates and committees for the period ending October 22, 2016* (E-17). Candidates being voted upon, their controlled committees, and committees primarily formed to support or oppose a candidate or measure must file the second pre-election paper statement by guaranteed overnight mail or personal delivery, in addition to any electronic filing requirements.</p>	<p>Gov. Code §§ 84200.8, 84200.7(b)</p>
10/28/16 (E-11) [Date designated by Secretary of State]	<p><b>72. CERTIFIED LIST OF PRESIDENTIAL WRITE-IN CANDIDATES</b> The Secretary of State will prepare and send to county elections officials a certified list of presidential write-in candidates showing the name and address of every write-in candidate eligible to receive votes at the general election.</p>	
10/29/16* (E-10)	<p><b>73. PUBLICATION OF TALLY CENTER LOCATION</b> On or before this date, a notice shall be published by the county elections official at least once in a newspaper of general circulation within the district specifying the public place to be used as the central tally center for counting the</p>	<p>§ 12109</p>
10/29/16* (E-10)	<p><b>74. STATE VOTER INFORMATION GUIDE SUPPLEMENTAL MAILING BY COUNTY — DEADLINE</b> On or before this date, county elections officials to mail state Voter Information Guides to voters who registered between September 10, 2016 (E-59), and October 10, 2016 (E-29), inclusive.</p>	<p>§ 9094(c)</p>
10/31/16 (E-8) [Date fixed by law]	<p><b>75. QUARTERLY STATEMENT BY BALLOT MEASURE COMMITTEES</b> All committees which have qualified as a recipient committee and are primarily formed to support or oppose the qualification, passage, or defeat of any measure must file a quarterly campaign statement for the period July 1, 2016 (E-130), through September 30, 2016 (E-39), during any semiannual period before the election in which the measure is not being voted upon unless the committee will file preelection statements for an upcoming election.</p>	<p>Gov. Code § 84202.3</p>
11/1/16 (E-7)	<p><b>76. NEW RESIDENT REGISTRATION PERIOD DEADLINE</b> Last day for new resident to register to vote prior to Election Day. This registration must be executed in the county elections office and the new resident shall vote a new resident's ballot in that office. A new resident is eligible to vote for only president and vice president.</p>	<p>§§ 332, 3400</p>

## November 8, 2016, General Election Calendar

- The ballots of new residents shall be received and canvassed at the same time and under the same procedure as vote-by-mail ballots. § 3405
- 11/1/16 (E-7) 77. **REPORT OF REGISTRATION — 15-DAY COUNTY INFORMATION DUE**  
On or before this date, county elections officials shall prepare information and provide notice to the Secretary of State regarding the number of registered voters in their counties as of October 24, 2016 (E-15). § 2187(a) & (c)(6)<sup>2</sup>
- 11/1/16 (E-7) 78. **VOTE-BY-MAIL BALLOT APPLICATION DEADLINE**  
Last day for the county elections official to receive any voter's application for a vote-by-mail ballot and to issue such ballot for the general election. §§ 3001, 3003, 3102  
See Items #80, #81, and #82 for exceptions.
- 11/1/16 (E-7) [5:00 p.m.] 79. **COMPUTER PROGRAM TO SECRETARY OF STATE**  
Last day for counties to verify their election night vote count computer programs and deposit copies thereof with the Secretary of State. § 1500(a)
- 11/2/16 to 11/7/16 (E-6 to E-1) 80. **MILITARY OR OVERSEAS VOTER RECALLED TO SERVICE**  
Period in which a registered military or overseas voter recalled to service after November 1, 2016 (E-7), but before 5:00 p.m. on November 7, 2016 (E-1), may appear before the county elections official and obtain a vote-by-mail ballot which may be voted in, or outside, the county elections official's office on or before the close of the polls and returned as are other voted vote-by-mail ballots. § 3111
- 11/2/16 to 11/8/16 (E-6 to E) 81. **REQUEST FOR VOTE-BY-MAIL BALLOT — LATE CONDITIONS**  
Period in which any voter may apply in writing for a vote-by-mail ballot if, because of specific conditions, he or she will be unable to go to the polls on Election Day. A written statement is not necessary if the vote-by-mail ballot is voted in the office of the elections official at the time of the request. The voter may designate any authorized representative to return the voted vote-by-mail ballot. § 3021
- 11/7/16 (E-1) [5:00 p.m.] 82. **MILITARY OR OVERSEAS VOTER RECALLED TO MILITARY SERVICE — REGISTRATION DEADLINE**  
Last day a registered military or overseas voter recalled to service after November 1, 2016 (E-7), but before 5:00 p.m. on November 7, 2016 (E-1), may obtain from the county elections official a vote-by-mail ballot which can be voted in, or outside, the county elections official's office on or before the close of the polls and returned as are other voted vote-by-mail ballots. § 3111
- 11/7/16 (E-1) [5:00 p.m.] 83. **MANUAL PROCESSING OF VOTE-BY-MAIL BALLOTS**  
Counties not having the necessary computer capability may begin to manually process vote-by-mail ballots at 5:00 p.m. on this date, but under NO circumstance may the vote count be accessed or released until 8:00 p.m. on November 8, 2016 (E). § 15101

## November 8, 2016, General Election Calendar

- 11/7/16  
(E-1)
- 84. ISSUE ADVOCACY REPORT (ELECTRONIC FILERS ONLY) — PERIOD ENDS**
- A disclosure report must be filed within 48 hours by anyone spending or promising to pay \$50,000 or more for a communication disseminated, broadcast or otherwise published within 45 days of an election, if the communication clearly identifies a candidate for state elective office but does not expressly advocate the election or defeat of that candidate.
- Cal. Code Reg.  
tit. 2, § 18539.2;  
Gov. Code § 85310
- 11/7/16  
(E-1)
- 85. ELECTION CYCLE REPORTS — 24-HR. PAYMENT REPORT (SLATE MAILER ORGANIZATIONS) — PERIOD ENDS**
- During the 90 days immediately preceding an election, each slate mailer organization that receives a payment of \$2,500 or more from a single source for the purpose of supporting or opposing any candidate or measure in a slate mailer must report the payment within 24 hours to the Secretary of State's office by online or electronic transmission only. (Deadlines are extended to the next business day when they fall on a Saturday, Sunday, or an official state holiday, except for the weekend before an election.) Such payments may be reported on a Slate Mailer Late Payment Report (Form 498).
- Gov. Code  
§§ 84203, 84220,  
85204
- 11/7/16  
(E-1)
- 86. 24-HOUR STATEMENT OF ORGANIZATION — RECIPIENT COMMITTEES AND SLATE MAILER ORGANIZATIONS — PERIOD ENDS**
- A recipient committee or slate mailer organization that qualifies during the 16 days prior to an election in which it must file pre-election statements must file a Statement of Organization Recipient Committee (Form 410) within 24 hours of qualification with the filing officer who will receive the committee's original disclosure statements. by personal delivery, facsimile transmission, or guaranteed overnight delivery.
- Gov. Code  
§§ 84101, 84108
- 11/8/16  
(E)
- 87. GENERAL ELECTION DAY**
- On this date, the polls shall be open throughout the state from 7:00 a.m. to 8:00 p.m.
- §§ 1000(d), 14212
- Voters who have moved from one address to another within the same county and have not reregistered may vote a provisional ballot at the polling place for their current (new) address at the office of the county elections official or at a central location designated by that elections official.
- § 14311
- 11/8/16  
(E)
- 88. HAND DELIVERED OR FAXED VOTE-BY-MAIL BALLOTS RETURNED IN ORDER TO BE COUNTED — DEADLINE**
- Hand delivered voted vote-by-mail ballots must be received by the county elections official by the close of the polls on Election Day.
- §§ 3012, 3017,  
14212
- Last day a military or overseas voter who is living outside of the United States (or is called for service within the United States on or after November 1, 2016 (E-7)) may return his or her ballot by facsimile transmission. To be counted, the ballot returned by facsimile transmission shall be received by the voter's elections official by 8:00 p.m. on Election Day and shall be accompanied by an identification envelope and a signed oath of vote declaration.

- 11/8/16  
(E) 89. **ELECTION CYCLE REPORTS — 24-HR. CONTRIBUTION REPORT PERIOD ENDS**  
During the 90 days immediately preceding an election and including Election Day, the following contributions that total in the aggregate of \$1,000 or more must be reported within 24 hours to the Secretary of State's office by online or electronic transmission only: Contributions made to a candidate, officeholder, political party committee, or a committee primarily formed to support or oppose a candidate or ballot measure; contributions received by a candidate, officeholder, a political party committee, a candidate in a CALPERS or CALSTRS election, or a committee primarily formed to support or oppose a candidate or ballot measure. Recipients of non-monetary or in-kind contributions must file within 48 hours of the date the contribution was received. Such contributions may be reported on a Contribution Report (Form 497).  
Gov. Code  
§§ 82036, 84203,  
84203.3, 85204,  
85309
- 11/8/16  
(E) 90. **ELECTION CYCLE REPORTS — 24-HR. INDEPENDENT EXPENDITURE REPORT PERIOD ENDS**  
During the 90 days immediately preceding an election and including Election Day, all candidates and committees that make an independent expenditure of \$1,000 or more to support or oppose a single candidate for elective state office or a single state ballot measure must report the expenditure within 24 hours to the Secretary of State's office by online or electronic transmission only. For independent expenditures made in connection with a CalPERS or CalSTRS election, a copy must also be filed with the relevant board office. Such independent expenditure reports may be reported on an Independent Expenditure Report (Form 496).  
Gov. Code  
§§ 82036.5, 84204,  
85204
- 11/8/16  
(E) 91. **MILITARY OR OVERSEAS VOTERS — LATE CONDITIONS**  
Last day an unregistered military or overseas voter who was released from service after October 24, 2016 (E-15), the close of registration, and who has returned to his or her county of residence may apply in person to register with the county elections official and vote in the election. Documentary proof of release from service is required. On or before the day of the election the county elections official shall deliver to the precinct board a list of military or overseas voters registered under Section 3108.  
§§ 300(b), 321, 3108  
  
Any registered military or overseas voter who has returned to their county of registration on or before this day and to whom a vote-by-mail ballot has been mailed but not voted may apply for a second vote-by-mail ballot. The elections official shall require him or her to sign an authorization to cancel the vote-by-mail ballot previously issued and shall then issue another vote-by-mail ballot to the voter or certify to the precinct board that the voter is eligible to vote in the precinct polling place of his or her residence.  
§ 3109

## November 8, 2016, General Election Calendar

- Last day a military or overseas voter who returns to the county after November 1, 2016 (E-7), may appear before the county elections official and make application for registration, a vote-by-mail ballot, or both. The county elections official shall register the voter, if not registered, and shall deliver a vote-by-mail ballot which may be voted in, or outside, the county elections official's office on or before the close of the polls on Election Day and returned as are other voted vote-by-mail ballots. § 3110
- 11/8/16 (E) 92. **REQUEST FOR VOTE-BY-MAIL BALLOTS — LATE CONDITIONS**  
Last day any voter may request in writing a vote-by-mail ballot because of specified conditions resulting in his or her absence from the polling place or precinct on Election Day. § 3021
- 11/8/16 (E) 93. **VOTE-BY-MAIL BALLOT APPLICATION FOR OUT-OF-STATE EMERGENCY WORKERS**  
Last day, upon the declaration of an out-of-state emergency by the Governor and the issuance of an executive order authorizing an out-of-state emergency worker to cast a ballot outside of his or her home precinct, an out-of-state emergency worker may request and vote a vote-by-mail ballot, which must be delivered to the elections official by mail or by hand on or before the close of polls, and returned as are other voted vote-by-mail ballots. §§ 336.7, 3021.5
- 11/8/16 (E) [8:00 p.m.] 94. **NEW CITIZEN REGISTRATION DEADLINE**  
Last day a new citizen is eligible to register to vote after the close of registration. The new citizen shall provide the county elections official with proof of citizenship prior to voting and declare that he or she has established residency in California. §§ 331, 3500, 3501  
The ballots of new citizens shall be received and canvassed at the same time and under the same procedure as vote-by-mail ballots. § 3502
- 11/8/16 (E) [8:00 p.m.] 95. **SEMIFINAL OFFICIAL CANVASS**  
Beginning at 8:00 p.m., and continuously until completed, the county elections official shall conduct the semi-official canvass of votes and report totals to the Secretary of State at least every two hours. §§ 15150, 15151
- 11/9/16 (E+1) 96. **\$5,000 REPORT (ELECTRONIC FILERS ONLY)**  
Candidates for state office and their controlled committees and committees primarily formed to support or oppose state measures must file a disclosure report within 10 business days if \$5,000 or more is received from a single source outside the 90-day period for the next election cycle. Gov. Code §§ 84204.5, 85309(c) & (d)
- 11/10/16 to 12/8/16 (E+2 to E+30) 97. **OFFICIAL CANVASS — BEGINNING**  
Beginning no later than the Thursday following the election, county elections officials must begin the official canvass of the precinct returns. This canvass must be completed not later than December 8, 2016 (E+30). §§ 15301, 15372

## November 8, 2016, General Election Calendar

- 11/11/16\*\*  
(E+3)      **98. MAILED VOTE-BY-MAIL BALLOTS — LAST DAY TO BE COUNTED**      §§ 3017, 3020  
 Any vote-by-mail ballot cast shall be deemed timely if it is received by the elections official via the United States Postal Service or a bona fide private mail delivery company no later than three days after Election Day and either of the following is satisfied: 1) The ballot is postmarked on or before Election Day or is time stamped or date stamped by a bona fide private mail delivery company on or before Election Day, or, 2) If the ballot has no postmark, a postmark with no date, or an illegible postmark, the vote-by-mail ballot identification envelope is date stamped by the elections official upon receipt of the vote-by-mail ballot from the United States Postal Service or a bona fide private mail delivery company, and is signed and dated pursuant to Section 3011 on or before Election Day.
- 11/16/16  
(E+8)  
[5:00 p.m.]      **99. VOTE-BY-MAIL BALLOTS — UNSIGNED IDENTIFICATION ENVELOPE**      § 3019<sup>d</sup>  
 Last day for a voter who did not sign the vote-by-mail ballot identification envelope to either sign the identification envelope at the office of the county elections official or complete and submit an "unsigned ballot statement."
- 11/18/16  
(E+10)      **100. PROVISIONAL BALLOTS OF EMERGENCY WORKERS**      § 14313  
 If the Governor declares a state of emergency, a provisional ballot cast by an emergency worker outside of his or her home precinct must be received by the county elections official where the voter is registered. The county elections official, in a county included in the executive order declaring the emergency, shall transmit for processing any ballot cast not later than the close of polls on Election Day by an emergency worker in a declared state of emergency, including any materials necessary to process the ballot, to the elections official in the county where the voter is registered to vote.
- 12/1/16  
(E+23)      **101. REPORT OF REGISTRATION — 15-DAY STATEWIDE REPORT PUBLISHED**      § 2187(b) & (c)(6)<sup>2</sup>  
 On or before this date the Secretary of State will release a statewide report showing the number of registered voters, by political party preference, in the state, each county, and each political subdivision thereof. This report is based on the information prepared and notification provided by each county elections official by November 1, 2016 (E-7).
- 12/6/16  
(E+28)      **102. STATEMENT OF RESULTS TO SECRETARY OF STATE — PRESIDENTIAL ELECTORS**      § 15375(d)  
 By this date, the county elections official shall send to the Secretary of State, in an electronic format, one complete copy of the returns for presidential electors.
- 12/8/16  
(E+30)      **103. OFFICIAL CANVASS DEADLINE**      § 15372  
 No later than this date, the county elections official must complete the canvass, certify its results, and submit it to the board of supervisors.  
 Suggested deadline for the board of supervisors to declare the winners for each office and the results of each measure under its jurisdiction. The county elections official shall make and deliver to each person elected a certificate of election.      §§ 15400, 15401



## November 8, 2016, General Election Calendar

- |  |  |  |
|--|--|--|
| 12/9/16<br>(E+31)  | <p><b>104. STATEMENT OF RESULTS TO SECRETARY OF STATE</b><br/>By this date, the county elections official shall send to the Secretary of State, in an electronic format, one complete copy of the returns for all candidates, except presidential electors, voted for at the general election, including for United States Senator, United States Representative in Congress, State Senator and Member of the Assembly. and for all statewide ballot measures.</p>   | §§ 15374, 15375                                    |
| 12/10/16*<br>(E+32)                                      | <p><b>105. CERTIFICATES OF ELECTION — PRESIDENTIAL ELECTORS</b><br/>No later than this date, the Secretary of State shall analyze the votes given for Presidential Electors and certify to the Governor the names of the proper number of persons having the highest number of votes. The Secretary of State shall issue and transmit to each Presidential Elector a certificate of election.</p> <p>The certificate shall be accompanied by a notice of the time and place of the meeting of the Presidential Electors and a statement that each Presidential Elector will be entitled to a per diem allowance and mileage in the amount specified.</p> | § 15505  |
| 12/16/16<br>(E+38)                                       | <p><b>106. STATEMENT OF THE VOTE</b><br/>Last day for the Secretary of State to prepare, certify, and file a statement of the vote from the compiled election returns.</p>   | § 15501  |
| 12/16/16<br>(E+38)                                       | <p><b>107. CERTIFICATES OF ELECTION — ALL VOTER-NOMINATED, NON-PRESIDENTIAL CANDIDATES</b><br/>The Secretary of State shall issue to each elected candidate a certificate of election.</p>   | §§ 15503, 15504                                    |
| 12/19/16<br>(E+41)<br>[Date fixed by law]<br>[2:00 p.m.] | <p><b>108. ELECTORAL COLLEGE CONVENES</b><br/>At this time and date, the Presidential Electors shall assemble at the State Capitol to vote by separate ballot for that person for President and that person for Vice President of the United States who are, respectively, the candidates of the political party which they represent. These votes are mailed to the seat of the government of the United States, directed to be President of the Senate.</p>  | U.S. Const.,<br>12th Amend.;<br>§§ 6904, 6906-6908 |
| 1/31/17<br>(E+84)<br>[Date fixed by law]                 | <p><b>109. CAMPAIGN STATEMENT — SEMIANNUAL</b><br/>Last day to file semiannual campaign statements for candidates, committees, and slate mailer organizations.</p>   | Gov. Code<br>§§ 84200, 84218                       |
| 2/10/17<br>to<br>3/1/17<br>(E+94 to E+113)               | <p><b>110. REPORT OF REGISTRATION — ODD-NUMBERED YEAR REPORT</b><br/>Period in which county elections officials shall prepare information and provide notice to the Secretary of State regarding the number of registered voters, by political party preference, in their counties and each political subdivision thereof. This information is based on the number of persons registered as of February 10, 2017 (E+94).</p>   | § 2187(a) & (c)(7) <sup>2</sup>                    |
| 3/1/17<br>(E+113)  | <p><b>111. REPORT OF REGISTRATION — ODD-NUMBERED YEAR COUNTY INFORMATION DUE</b><br/>On or before this date, county elections officials shall prepare information and provide notice to the Secretary of State regarding the number of registered voters in their counties as of February 10, 2017 (E+94).</p>   | § 2187(a) & (c)(7) <sup>2</sup>                    |

## November 8, 2016, General Election Calendar

- |                     |  |                                 |
|---------------------|--|---------------------------------|
| 3/10/17<br>(E+122)  | <p><b>112. REPORT OF REGISTRATION — ODD-NUMBERED YEAR STATEWIDE REPORT PUBLISHED</b></p> <p>Date projected by the Secretary of State to release a statewide report showing the number of registered voters, by political party preference, in the state, each county, and each political subdivision thereof. This report is based on the information prepared and notification provided by each county elections official by March 1, 2017 (E+113).</p> | § 2187(b) & (c)(7) <sup>3</sup> |
| 4/15/17*<br>(E+158) | <p><b>113. SUPPLEMENT TO THE STATEMENT OF THE VOTE</b></p> <p>Last day for the Secretary of State to compile a supplement to the statement of the vote showing the number of votes cast in each county, city, assembly district, state senatorial district, congressional district, and supervisorial district for each candidate for the offices of United States President and United States Senator and on each statewide ballot measure.</p>         | § 15502                         |

\* Date falls on a weekend or state holiday; it does not move forward to the next business day.

\*\* Date falls on a weekend or state holiday; it moves forward to the next business day.

<sup>1</sup> All code references are to the California Elections Code unless otherwise stated.

<sup>2</sup> Assembly Bill (AB) 1020 (Ridley-Thomas), Chapter 728, Statutes of 2015, amends provisions of the Elections Code as they relate to the Report of Registration, among other things. AB 1020 will become operative once the Secretary of State certifies that the state has a statewide voter registration database that complies with the requirements of the Help America Vote Act of 2002 (52 U.S.C. § 20901 et seq.).

<sup>3</sup> Elections Code section 3114 and the federal MOVE Act require that ballots be sent to military and overseas voters not later than 45 days prior to an election. This E-date must be adhered to and does not move forward even though the date falls on a Saturday.

<sup>4</sup> Assembly Bill (AB) 477 (Mullin), Chapter 726, Statutes of 2015, adds provisions to the Elections Code for Green Party presidential and county council elections and allows a voter to submit an "unsigned ballot statement" to county elections officials if the voter's vote-by-mail ballot identification envelope was unsigned. AB 477 will become effective January 1, 2016.

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**07/05/2016** at 08:54:00 AM  
Clerk of the Superior Court  
By Adam Beason, Deputy Clerk

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9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO—CENTRAL DIVISION**

11 CITIZENS OVERSIGHT INC., a Delaware )  
12 non-profit corporation; RAYMOND LUTZ, )  
13 an individual, )

14 Plaintiffs, )

15 vs. )

16 MICHAEL VU, San Diego Registrar of )  
17 Voters; HELEN N. ROBBINS-MEYER, )  
18 San Diego County Chief Administrative )  
19 Officer; COUNTY OF SAN DIEGO, a )  
20 public entity; DOES 1-10, )

21 Defendants. )

CASE NO: 37-2016-00020273-CL-MC-CTL

**PLAINTIFFS' REPLY MEMORANDUM OF  
POINTS AND AUTHORITIES IN SUPPORT  
OF INJUNCTIVE RELIEF**

**Hon. Joel R. Wohlfeil, Judge**

Complaint filed: June 16, 2016  
No Trial Date Set

Hearing Date: July 6, 2016  
Hearing Time: 1:30 p.m.  
Dept: C-73

22 Plaintiffs submit the following Reply to Defendants' Memorandum of Points and  
23 Authorities in Opposition to Plaintiffs' Motion for Injunctive Relief.

24 **I.**

25 **INTRODUCTION**

26 Defendants oppose the Plaintiffs' request for an injunction *pendente lite* based upon an  
27 argument that some compliance or even substantial compliance with the law is sufficient to  
28 defeat Plaintiffs' case. Substantial compliance requires actual compliance with respect to the  
substance essential to every reasonable objective of the statute. Defendants' defense that it is  
impractical or expensive or too difficult are woeful defenses when election integrity is essential

1 for the public good. Plaintiffs have met their burden of meeting the two-pronged standard for an  
 2 injunction *pendente lite* that they are likely to prevail on the merits and that the harm that would  
 3 be caused should the Court fail to impose an order requiring compliance is substantial.

## 4 II.

### 5 FACTUAL REPLY

6 Defendants' curious opening salvo asserts rank speculation unsupported supposition  
 7 regarding the Plaintiffs' motives or timeliness in bringing this matter to court. (Defendants'  
 8 Memorandum of Points and Authorities in Opposition to Plaintiffs' Motion for Preliminary  
 9 Injunction, page 1)

10 To the contrary and in fact, Plaintiff has brought this case entirely in the interest of  
 11 promoting and preserving election integrity and public education as the mission of Citizens  
 12 Oversight, and in response to the Registrar's unlawful conduct leading up to the lawsuit.<sup>1</sup>

13 The Registrar offers little to defend his failure to comply with the requirement of the  
 14 Elections Code for a full and accurate audit of the election results. Registrar Vu first argues that  
 15 it is appropriate to leave out nearly half the votes cast by the voters in conducting his required  
 16 one percent manual tally, just because that is the way he allegedly has done it in the past, whether  
 17 he was at the time operating under former or current statutory law.<sup>2</sup> Registrar Vu next argues that  
 18 his failure to include all provisional and vote-by-mail ballots in the total set of votes from which  
 19 the one percent sample was drawn is somehow excusable because certain other Registrars of  
 20 Voters also violate the law in this manner. (Defendants' Memorandum of Points and  
 21 Authorities in Opposition to Plaintiffs' Motion for Preliminary Injunction, pages 10 and 12)

22 Registrar Vu finally contends absurdly that the Legislature intended to require an audit of  
 23 the election system while leaving out half the votes cast by the voters in the total set of votes to  
 24 \_\_\_\_\_

25 <sup>1</sup> (Supplemental Declaration of Raymond Lutz in support of Motion for Injunctive Relief  
 26 ("Supp Lutz"), at para 3-7 (election integrity), para 8-13 (timeliness))

27 <sup>2</sup> On June 8, the Registrar staff selected 8 batches from this set, roughly 1% of the batches  
 28 in that set. It would have been possible then for the Registrar to work on the manual tally for  
 those 8 batches while still continuing to accumulate ballots that were not subject to the audit in  
 batches. According to the Registrar's own figures on election night, there were an additional  
 285,000 ballots that were uncounted. (Lutz Supp, para 19)

1 be sampled.<sup>3</sup> Registrar Vu seems to base this argument on his apparent disgruntlement that the  
 2 legislature might have unrealistically or impractically required him to complete a “labor-  
 3 intensive” task within an unrealistic time frame, thereby justifying him in substituting his own  
 4 discretion in place of the intent of the legislature by employing the shortcut of sampling only a  
 5 fraction of the ballots cast by the voters by excluding entire categories of votes, namely Vote-by-  
 6 mail ballots received after the close of polling places on June 7 as well as the high proportion of  
 7 provisional votes which he inexplicably and unnecessarily instructed his poll workers to give to  
 8 NPP-registered voters seeking to vote in the Democratic Presidential Primary. The latter  
 9 category — by the very nature of this election — is very likely to show a different distribution of  
 10 votes among the candidates than do non NPP votes, a difference that could affect the outcome of  
 11 the election.

12 If Registrar Vu felt the legislature had saddled him with an impractical task to be  
 13 completed within unrealistic deadlines, he himself had years before this election to bring his  
 14 dissatisfaction with the statutory process to the attention of the legislature, and to request them to  
 15 make appropriate amendments to the statutory scheme, rather than to “freelance” by substituting  
 16 his own non-compliant procedure in place of the procedure set forth in the statute.

### 17 III.

#### 18 LEGAL DISCUSSION

##### 19 1. An injunction *pendente lite* is appropriate.

20 Defendants assert that injunctive relief is improper for to order the Registrar to comply  
 21 with Elections Code section 15360 before certification of the June 6, 2016, election. (See  
 22 Defendants’ Memorandum of Points and Authorities in Opposition to Plaintiffs’ Motion for  
 23 Preliminary Injunction, pages 6-7.) Defendants’ basis for this assertion is that Plaintiffs could  
 24 have also brought a cause of action for mandamus, i.e., “[a]n elector *may* seek a writ of mandate  
 25

---

26  
 27 <sup>3</sup> In conducting post-election audits, election officials should not exclude any category of  
 28 votes (e.g. absentee ballots, provisional ballots, damaged ballots). ... Excluding these ballots from  
 an audit would leave a significant opportunity for errors to remain undetected.” (Brennan Center  
 Report, page 7) (Lutz Supp, para 22)

1 alleging that an error or omission has occurred . . . ” (Elections Code Section 13314, emphasis  
2 added.)

3 An injunction *pendente lite* is not a cause of action. It is a provisional remedy. It is a  
4 proper form of relief to ensure election integrity. Elections Code statutes have long been  
5 discussed in connection with injunctive relief claims against public officials executing laws in  
6 electoral contexts. (See, *Drumhiller v. Wright* (1923) 64 Cal.App. 498, 501; *Kevelin v. Jordan*  
7 (1964) 62 Cal.2d 82, 83; *Santa Clara County v. Superior Court* (1949) 33 Cal.2d 552, 554–555;  
8 *Wright v. Jordan* (1923) 192 Cal. 704, 710; *People v. Board of Supervisors* (1888) 75 Cal. 179,  
9 180–182; *Martinez v. Board of Supervisors* (1972) 23 Cal.App.3d 679, 684–685, 100 Cal.Rptr.  
10 334, as cited in *Jauregui v. City of Palmdale* (2014) 226 Cal.App.4th 781.)

11 An injunction *pendente lite* is not the same as a permanent injunction. Defendants  
12 misplace their reliance on *Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432. In  
13 granting or denying an injunction *pendente lite*, the trial court determines whether the *status quo*  
14 of the parties should be maintained pending the litigation. In making this determination, the trial  
15 court considers whether the plaintiff has a likelihood of succeeding on the merits and whether the  
16 plaintiff will suffer greater interim harm from a denial of the injunction *pendente lite* than the  
17 defendant is likely to suffer from its grant. (*Baypoint Mortgage Corp. v. Crest Premium Real*  
18 *Estate etc. Trust* (1985) 168 Cal.App.3d 818, 823–824.) A permanent injunction is an equitable  
19 remedy for certain wrongful acts of a defendant where a damage remedy is inadequate. A  
20 permanent injunction is a determination on the merits that a plaintiff has prevailed on a cause of  
21 action for tort or other wrongful act against a defendant and that equitable relief is appropriate. A  
22 permanent injunction is not issued to maintain the *status quo* but is a final judgment on the  
23 merits. (6 Witkin, Cal. Procedure (3d ed. 1985) Provisional Remedies, §§ 250, 251, pp. 216–218;  
24 *Richards v. Dower* (1883) 64 Cal. 62, 64, 28 P. 113.)

25 Therefore, although mandamus may also be an appropriate cause of action, Plaintiffs are  
26 also correct to ask the court for declaratory relief and an injunction *pendente lite*.

27 **A. Defendants admit lack of compliance with Elections Code Section 15360.**

28 Defendants argue that the Registrar’s failure to include provisional ballots and vote-by-

1 mail ballots in its one percent manual tally is standard operating procedure. Defendants offer the  
2 irrelevant evidence that other county registrars also do not include provisional ballots and vote-  
3 by-mail ballots in the one percent manual tally (Defendants' Memorandum of Points and  
4 Authorities in Opposition to Plaintiffs' Motion for Preliminary Injunction, pages 10 and 12). The  
5 argument that others are guilty of this unlawful, improper, invalid practice does not further the  
6 defense that it is permissible.

7 **B. Defendants incorrectly argue the history of the legislative history of Elections**  
8 **Code Section 15360.**

9 Elections Code Section 15360 was enacted in 1998, repealing and reenacting the previous  
10 version of the statute, Section 15645. The previous version, Section 15645, put a 15-day time  
11 limit on the 1% manual recount. (1994 Cal ALS 920, 1994 Cal SB 1547, 1994 Cal Stats. ch.  
12 920). In reenacting the statute as Section 15360, this time limitation was repealed, and the 1%  
13 tally was authorized to occur "during the official canvass." (1998 Cal ALS 1073, 1997 Cal SB  
14 627, 1997 Cal Stats. ch. 1073) [Emphasis added.]. At this point, Elections Code § 336.5 was  
15 also added, defining "one percent manual tally" and stating its purpose: "[t]his procedure is  
16 conducted during the official canvass to verify the accuracy of the automated count." (Stats 1998  
17 ch 1073 § 4 [SB 627]) [Emphasis added.].

18 Defendants' refer to the clause "provisional ballots and ballots cast at satellite locations"  
19 having been deleted before the second reading of the Bill in committee as supportive of their  
20 decision to not count provisional ballots before conducting the one percent manual tally. We  
21 disagree that such a deletion supports their decision. Deleting a clause DOES NOT imply that the  
22 opposite is intended. It DOES NOT mean that provisional ballots should not be included in the  
23 one percent manual tally nor that it is recommended that they NOT be included. The phrase was  
24 removed only because it was redundant. "All votes cast at precincts" already includes the  
25 provisional ballots but does not necessarily include vote-by-mail ballots. Thus, adding a separate  
26 phrase for vote-by-mail ballots is called for since there may be confusion because, unlike  
27 provisional ballots, vote-by-mail ballots are not "cast at precincts," but the clause "(a)ll votes cast  
28 at precincts" clearly includes the provisional ballots because once they are reviewed, they are also

1 "votes cast at precincts." The drafters in the committee simply streamlined the wording to  
2 eliminate the possibility that having a class of ballots enumerated could lead to confusion that  
3 other classes of ballots were excluded, whereas the final wording of "all votes cast at precincts"  
4 is unambiguous, clear, and unarguable.

5 Moreover, it is clear that the legislative intent of this section does not exclude from  
6 sampling all vote-by-mail ballots that were not processed as of election night. There is no doubt  
7 that the wording of the statute does and always has included all the vote-by-mail ballots in the  
8 manual tally procedure. There is no section "deleted in the second reading" that a Registrar can  
9 use to reduce the scope of the one percent manual tally.

10 This whole notion that the Registrar strives to exclude ballots from being the subject of  
11 the one percent manual tally audit process is beyond reason. Furthermore, excluding entire  
12 categories of ballots from the total to be sampled for the one percent manual tally, could invite  
13 mischief. For example, suppose the extraordinarily high number of provisional ballots cast by  
14 NPP voters in the June 7 primary election were to reflect a substantially different distribution of  
15 votes among the candidates for president. If those provisional votes could be excluded from the  
16 set of votes to be sampled, there would then be no manual tally of one percent of those votes and  
17 therefore no way to determine whether that category of votes might have been scanned  
18 inaccurately or, indeed, pursuant to fraudulent programming (since if they were omitted,  
19 provisional votes would have been scanned at a later time than those votes from which the one  
20 percent sample would already have been drawn. The unambiguous final reading of Section  
21 15360 should be implemented. Without exception, all ballots cast should be included in the total  
22 set of ballots from which to draw the one percent sample, including all Vote-by-mail ballots and  
23 "(a)ll votes cast at precincts".

24 This conclusion also is supported by various expert study groups on the subject, such as  
25 the Brennan Center. According to the Brennan Center's recommendation on such audits, they  
26 specifically recommend that all ballot types be included:

27 **Audit All Methods of Voting.** In conducting post-election audits, election  
28 officials should not exclude any category of votes (e.g., absentee ballots,



1 provisional ballots, damaged ballots). In 2004, seven states reported that  
 2 more than twenty percent of all votes were cast during early voting  
 3 periods. Excluding these ballots from an audit would leave a significant  
 4 opportunity for errors to remain undetected. (Brennan Report, page 7)

5 The sponsoring Senator, Debra Bowen, Chairwoman of the Senate Elections,  
 6 Reapportionment & Constitutional Amendments Committee, (who later served as California  
 7 Secretary of State) stated on the Senate floor when the Bill shortly before the Bill passed:

8 "This bill, and SB 1235 (Bowen), stems from anecdotal reports that some  
 9 counties routinely exclude absent voter and provisional ballots from the  
 10 one percent manual tally process and may not be choosing the relevant  
 11 precincts in a truly "random" manner. Over 40 percent of the votes cast  
 12 in the last statewide election were from absent voter ballots, a number that  
 13 has steadily risen in recent years. The use of provisional ballots has also  
 14 increased in recent years. Excluding these ballots from the manual tally  
 15 severely lessens the value and the accuracy of this post-election audit."

16 (Background, 8/24/06 Senate Floor Analysis, 2006 Cal AB 2769).

17 **B. All votes must be counted for the one percent manual tally to be the check**  
 18 **and balance for election integrity.**

19 **1. Vote-by-mail Ballots:**

20 The legislative history repeatedly indicates that "all vote-by-mail ballots [should] be  
 21 included in the 1% manual tally." (Julie Rodewald, Argument in Support, 6/7/11 Senate Floor  
 22 Analysis, 2011 Cal AB 985; see also Background, 8/24/06 Senate Floor Analysis, 2006 Cal AB  
 23 2769). The statute was amended to explicitly include vote-by-mail ballots (2006 Cal AB 2769),  
 24 and again to facilitate counting all vote-by-mail ballots more efficiently in the one percent  
 25 manual tally. (2011 Cal AB 985). Although Registrar Vu initially decided to follow this more  
 26 efficient procedure — a two-part public manual tally — set forth in Elections Code Section  
 27 15360 (a) (2), when confronted with Plaintiffs' objections that he was omitting the Vote-by-mail  
 28 ballots received after election day, the Registrar later changed his mind and announced his intent

1 to simply perform a one-part manual tally pursuant to Elections Code Section 15360 (a) (1), but  
2 excluding the Vote-by-mail ballots and provisional ballots that would not be counted until after  
3 the one percent samples would have been drawn shortly after the election. Having done so, he  
4 contaminated the entire audit process, leaving the door wide open for mischief and outright  
5 fraud, should any malefactor wish to perpetrate it.

## 6 2. Provisional Ballots:

7 This election cycle resulted in record number of provisional ballots cast at the precincts.  
8 There are proper uses for provisional ballots at the polls, i.e., when someone is registered to  
9 receive a vote-by-mail ballot and shows up at the poll without the ballot sent by mail. In this  
10 election, however, poll workers were improperly instructed by the Registrar to give provisional  
11 ballots to the vast majority of those voters registered as "No Party Preference" who requested  
12 ballots for the Democratic presidential primary at the precinct polling places. (Lutz Decl, para  
13 31)

14 The Registrar asserts that the processing of provisional and vote-by-mail ballots is labor  
15 intensive and expensive. (Vu Decl, para 30) He further dismisses including provisional ballots in  
16 the audit because doing so will take too long. (Vu Decl, para 32, 32, 34) One can at best infer  
17 from this testimony that he is pleading that substantial compliance is enough to comply with  
18 Elections Code Section 15360. In fact, he is pleading to be permitted by this court to proceed in  
19 blatant noncompliance with the statute.

20 In *Ruiz v. Sylva*, the Second District Court of Appeal, stated: "[S]ubstantial compliance  
21 . . . means actual compliance in respect to the substance essential to every reasonable objective  
22 of the statute." (Citing *Assembly v. Deukmejian* (1982) 30 Cal.3d 638, 649, quoting *Stasher v.*  
23 *Harger-Haldeman* (1962) 58 Cal.2d 23, 29) The doctrine of substantial compliance, however,  
24 cannot save action that misinforms the voters or fails to inform the voters of information  
25 necessary to "exercise intelligently their rights . . ." (*Creighton v. Reviczky* (1985) 171  
26 Cal.App.3d 1225, 1232.) Nor may it be "relied upon to save carelessly or negligently prepared  
27 petitions." (*California Teachers Assn. v. Collins* (1934) 1 Cal.2d 202, 205.) "[S]tatutes passed for  
28 the purpose of protecting electors from confusing or misleading situations should be enforced."

1 (*Clark v. Jordan* (1936) 7 Cal.2d 248, 252.) (*Ruiz v. Sylvia* (2002) 102 Cal.App.4th 199.)

2 "Substantial compliance, as the phrase is used in the decisions, means actual compliance  
3 in respect to the substance essential to every reasonable objective of the statute." [Citation.]

4 "[o]ur primary concern is the objective of the statute." (*Flannery v. VW Credit, Inc.* (2014) 232  
5 Cal.App.4th 606; *Malek v. Blue Cross of California* (2004) 121 Cal.App.4th 44, 72).

6 The Elections Code also provides clarity. Elections Code Section 14310 describes the  
7 procedures regarding provisional ballots:

8 14310. (a) At all elections, a voter claiming to be properly registered, but whose  
9 qualification or entitlement to vote cannot be immediately established upon  
10 examination of the index of registration for the precinct or upon examination of  
11 the records on file with the county elections official, shall be entitled to vote a  
12 provisional ballot. . .

13 And the section goes on to describe how that ballot is to be processed. This would apply  
14 to voters who may be at the wrong precinct or who may be on the list as a vote-by-mail voters.  
15 In such a case, this code section describes how it is to be processed. However, there is another  
16 class of provisional ballots. These arise with regard to electronic voting systems:

17 Section 14300

18 . . .  
19 (c) Upon request, the precinct board shall provide a paper ballot to a voter,  
20 regardless of the availability of the direct recording electronic voting system, as  
21 long as supplies remain available.

22 (d) The paper ballots described in this section may consist of provisional  
23 ballots.

24 (e) Any vote cast on a provisional ballot subject to this section by an otherwise  
25 qualified voter shall be counted as a regular ballot and shall not be subject to the  
26 requirements of Section 14310.

27 Section 14310 relates to voters whose registration is in question, who are in the wrong  
28 polling place or are a vote-by-mail voter without a ballot to surrender. In this election, there were  
29 numerous "No Party Preference" (NPP) voters who wanted to request partisan ballots for the  
30 purposes of the presidential race. These are not "provisional" ballots pursuant to section 14310  
31 because the registration of the voter is not in question. Instead, these should be processed  
32 pursuant to section 14300, under which a voter can request a paper ballot and not be subject to  
33 the requirements of section 14310.

34 For this reason, many of the ballots which have been classified as "provisional ballots"

1 are actually treated under section 14300(e) and "shall be counted as a regular ballot and shall not  
2 be subject to the requirements of Section 14310". Since this class of "provisional ballots" must  
3 be "counted as a regular ballot" they must also be included in the set of ballots subject to the 1%  
4 manual tally.

5 The Registrar actually manufactured the problem presented by such a large number of  
6 provisional ballots in the June 7 Primary Election that he now claims cannot practically be  
7 included in the samples for the one percent manual tally. At the precinct polling places, unless  
8 those NPP voters who requested ballots to vote in the Democratic presidential primary were  
9 omniscient or sufficiently conversant with official jargon so that they would have known to  
10 request a "Democratic crossover ballot," but instead simply asked for a Democratic ballot or to  
11 vote in the Democratic primary without including the "magic word" "crossover," the poll  
12 workers were "trained" to give those NPP voters a "regular" Democratic ballot containing races,  
13 such as those for candidates for Democratic Central Committee, in which NPP voters are not  
14 legally permitted to vote. Common sense would have dictated that the poll workers should have  
15 been "trained" instead to give those NPP voters "Democratic crossover ballots" — the only ballot  
16 on which they would have been legally entitled to vote in the first place. Had they done so, those  
17 "crossover" ballots could and should have been treated as "regular ballot(s)" under Section  
18 14300 and there would have been vastly fewer provisional ballots for the Registrar to contend  
19 with. Furthermore, those "Democratic crossover ballots" would have initially been scanned as  
20 with all the other precinct ballots, and thus would already have been included in the one percent  
21 samples, and would not have been the subject of contention in this lawsuit. (Declaration of Ben  
22 D. Cooper)

23 It has not escaped the Plaintiffs' attention and concern that the Registrar's gratuitous  
24 manufacture of so many thousands if not hundreds of thousands of these unnecessarily created  
25 provisional ballots and his subsequent and continuing insistence on excluding them from the one  
26 percent manual tally designed to reveal anomalous results has opened the door to the possibility  
27 of just the kind of mischief that Section 15360 was intended to prevent.

28 Despite his pleas of impossibility and substantial compliance, the Registrar can comply

1 with both the spirit and the intent of the one percent manual tally. The one percent manual tally  
2 can detect machine malfunction and fraud if it is used correctly, and it should be used this way.  
3 Why would any reputable and honorable Registrar not want to detect machine malfunction and  
4 fraud?

5 One methodology which can detect some types of central tabulator fraud using the one  
6 percent manual tally follows:

7 The one percent of precincts chosen would apply to the ballots cast at the precincts and  
8 vote by mail ballots already received and processed by election night. This is essentially what the  
9 Registrar finally wound up doing, even though his staff initially chose sample precincts and  
10 batches, but then those batches were ignored and conveniently forgotten. The Registrar has the  
11 ability to sort the vote-by-mail ballots down to the individual precinct using their Pitney Bowes  
12 ReliaVote sorting machine before they are pulled out of their envelopes. Thus, the vote-by-mail  
13 ballots initially received could have been sorted in this manner and then scanned as a group, just  
14 as ballots cast at the precincts are scanned. Additionally, a paper-tape paper trail could have been  
15 generated for those vote-by-mail ballots scanned in this manner. Then, as more vote-by-mail and  
16 provisional ballots are processed, they could be grouped either by precinct or batches. Thus,  
17 each group of ballots would have been processed in the following six steps:

- 18 1. Group them into batches and scan each batch until all batches are scanned for this group.  
19 If feasible, create a paper-tape audit trail for each batch scanned;
- 20 2. Secure the batches so they cannot be modified;
- 21 3. Create a computer report detailing the results for each batch, and for all batches, and  
22 make this report available to the public. Preferably also transfer this to a third party for  
23 safekeeping;
- 24 4. Select random batches;
- 25 5. Manually tally each batch pulled;
- 26 6. Compare with the frozen computer result.

27 This procedure would give the one percent manual tally 100% effectiveness and comply  
28 with the requirement of Section 15360. (Lutz Supp, para 21) Plaintiffs are not suggesting that

1 the Registrar wait until all of the vote-by-mail ballots have been processed and included in the  
2 official canvass. Section 15360(a)(2) provides a method by which the vote-by-mail ballots can  
3 be included in the one percent manual tally without delaying the process. No one ever has  
4 suggested that the Registrar wait for completion or delay of the "official canvass" as it is the  
5 "unofficial canvass" with which the one percent manual tally is compared. Given that any audit  
6 methodology may have some likelihood of detecting fraud, if one increases the scope of that  
7 audit methodology and includes more data over time, the likelihood of detecting fraud will  
8 increase. That is the spirit and intent of Elections Code Section 15360

9 **D. Losing the ability to audit the last election will cause substantial harm.**

10 In terms of this motion, the Court should note that if the Defendants are not enjoined  
11 from certifying the recent election until they fully comply with Section 15360, citizens like  
12 Plaintiffs will be deprived of the full verification required by law and the integrity of the election  
13 results will have been irrevocably compromised, as it may already have been.

14 In the June 2016 primary, the set of precinct ballots was approximately 210,000 ballots  
15 split among the 1522 precincts. The set of vote-by-mail ballots processed by the end of election  
16 night were approximately 290,000 ballots. (Lutz Supp, para 19) According to figures on  
17 election night, there were an additional 285,000 Vote-by-mail and provisional ballots that  
18 remained uncounted. (Id.) Leaving out 285,000 ballots from the one percent manual tally leads  
19 to a false result, is incomplete at best, and invalid as a matter of law. If the Court does not  
20 require compliance with the one percent manual tally, the June 7, 2016, results will be certified  
21 by the Registrar as is and the voters of this County will have been cheated of a required step for  
22 election integrity.

23 ///  
24 ///  
25 ///  
26 ///  
27 ///  
28 ///

V.

CONCLUSION

In sum, omitting all of the provisional ballots and half of the vote by mail ballots from the 1 percent manual tally is in direct violation of California Elections Code Section 15360. The Court must enjoin the Registrar from certifying the June 7<sup>th</sup> Primary Election until he has complied fully with Section 15360.

Respectfully Submitted,

Dated: July 5, 2016



Alan L. Geraci, Esq. of CARE Law  
Group PC Attorney for Plaintiffs  
Citizens Oversight Inc. and Raymond Lutz

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9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO--CENTRAL DIVISION**

11 CITIZENS OVERSIGHT INC., a Delaware )  
12 non-profit corporation; RAYMOND LUTZ, )  
13 an individual, )

14 Plaintiffs, )

15 vs. )

16 MICHAEL VU, San Diego Registrar of )  
17 Voters; HELEN N. ROBBINS-MEYER, )  
18 San Diego County Chief Administrative )  
19 Officer; COUNTY OF SAN DIEGO, a )  
20 public entity; DOES 1-10, )

21 Defendants. )

CASE NO: 37-2016-00020273-CL-MC-CTL

**SUPPLEMENTAL DECLARATION OF  
RAYMOND LUTZ IN SUPPORT OF  
INJUNCTIVE RELIEF**

**Hon. Joel R. Wohlfeil, Judge**

Complaint filed: June 16, 2016  
No Trial Date Set

Hearing Date: July 6, 2016  
Hearing Time: 1:30 p.m.  
Dept: C-73

**Hon. Joel R. Wohlfeil**

22 I, Raymond Lutz further declare, in rebuttal to the testimonies offered by the County of  
23 San Diego, as follows:

- 24 1. Raymond Lutz is a native Californian and active contributor to the technical, scientific,  
25 and political community. He has published hundreds of papers, technical documents, user  
26 manuals, public standards, and a science novel . Knowledgeable in science, engineering,  
27 and marketing, Lutz holds several patents, has been part of numerous start-up enterprises,  
28 and is involved in the latest developments in biotechnology and physics. He holds a  
Master of Science degree in Electronics Engineering. Most recently, he started Citizens'  
Oversight Projects (COPs) to oversee local governmental bodies. COPs led him to work



1 with others to help a) block Blackwater from setting up a mercenary training camp in  
2 East San Diego County in 2007, b) to shut down the San Onofre nuclear plant in 2012, c)  
3 has since engaged with the California Public Utilities Commission (CPUC) regarding  
4 how the \$3.3 billion plant shut-down costs would be distributed and how the nuclear  
5 waste will be dealt with. Starting in 2007, he conducted extensive investigations in to the  
6 elections process and reviewed the San Diego County Registrar of Voters. He devised the  
7 Open Canvass method and the SnapShot protocol to improve trust in our elections  
8 process. Lutz ran for the 77th State Assembly seat in 2008 and for the 52<sup>nd</sup>  
9 Congressional District in 2010.

10 2. I am knowledgeable about the systems in place for performing a one percent manual tally  
11 in California. I have studied the treatises available for California Registrars, including,  
12 but not limited to, "Post-Election Audits: Restoring Trust in Elections", (2007) Brennan  
13 Center for Justice and Samuelson Law, Technology & Public Policy Clinic ("Brennan  
14 Center Report"); Hall, Joseph "Procedures for California's 1% Manual Tally" (2008) UC  
15 Berkeley School of Information. I am also the Chief Executive Officer of Citizens  
16 Oversight Inc.

17 3. Citizens Oversight (COPS) is a charity nonprofit organization which operates with a  
18 501(c)3 exemption. It does not have "preferred political candidates." This lawsuit IS  
19 NOT specific to any candidates or ballot measures. Because we do not have access to  
20 election materials, we cannot prove that correct implementation of the one percent  
21 manual tally (OPMT) will result in a change in election results nor is that our concern.  
22 However, due to the vast number of provisional ballots submitted in this election and the  
23 Registrar's disregard of those votes, the disposition of counting all votes may  
24 substantially change the results of the election. There is intense interest in this issue at  
25 this time and educating the public and the media about the issue is one of the key  
26 missions of Citizens Oversight.

27 4. One of the missions of our organization is "Election Integrity," a nonpartisan issue which  
28 has overwhelming support by the public. We, as members of the public, have a right to

1 observe the elections process, ask questions of elections officials, and get them answered  
2 (Elec Code 2300). This is a solemn duty of citizens in our democracy which we take very  
3 seriously.

4 5. I am not an attorney and rarely file lawsuits. We have worked for years to get  
5 improvements in the San Diego Registrar of Voters (SDROV), by attempting to  
6 document their (largely undocumented) procedures and making written suggestions and  
7 recommendations. When the Registrar was unwilling to comply with Election Code  
8 Section 15360 by conducting the one percent manual tally on all votes cast, the only  
9 recourse for the voters at large was to file legal action.

10 6. Public education about process is an important function of Citizens Oversight. I am  
11 aware of the public record concerning Mr. Vu's assignment in Ohio. Because Mr. Vu  
12 resigned from the same position in Cuyahoga County, Ohio (Cleveland) after two of his  
13 employees were convicted and sentenced to 18 months for falsely tallying election  
14 recount of the county in the 2004 Presidential election, I was deeply concerned that he  
15 was ignoring the one check for election integrity in California.

16 7. As part of its mission, Citizens Oversight does press conferences to answer questions of  
17 the press and disseminate information to the public at large. The press conference on  
18 6/28 was a very serious affair where we outlined the nature of the lawsuits filed, noted  
19 that Attorney Alan Geraci has been hired to represent the plaintiffs, and also, to announce  
20 that Citizens Oversight, Inc. has been added as an additional plaintiff. Also at the press  
21 conference was the announcement of a related case being handled by Attorney William  
22 Simpich, regarding the handling of provisional ballots on a state-wide basis. The caution  
23 by Mr. Lutz regarding the event was to avoid partisanship and to conduct a professional  
24 event which did not include violence unprofessional signs or displays. Thus, "play your  
25 role" was advice to volunteers on how to conduct themselves and not any indication that  
26 the lawsuit is not a serious matter. A video of the press conference can be viewed at this  
27 link: [https://youtu.be/IAO\\_MmylfGE](https://youtu.be/IAO_MmylfGE)

28 8. Citizens Oversight has attempted to learn the methodology used by the Registrar but has

1 found it is a moving target. In 2010, Citizens Oversight and Plaintiff Raymond Lutz  
2 published a review of the San Diego County Registrar and their practices. This project  
3 consumed two years of elapsed time and countless hours of analysis to result in a set of  
4 recommendations to the ROV. One of the key findings of this investigation was the lack  
5 of written procedures. If any did exist, they were likely out of date. This problem still  
6 persists at the SDROV. Citizens Oversight reported: "The most obvious deficiency of  
7 the Registrar's office is the lack of comprehensive policy and procedures documents.  
8 Such documentation is always the first step in any quality assurance program. It is  
9 essential for public oversight of elections processing so we can check that the procedures  
10 are correct and that they are being followed. In addition, there is no procedure to  
11 systematically deal with errors and omissions to improve those procedures and eliminate  
12 errors in the future, which is key to an effective quality assurance program. There is little  
13 confidence that, without any written plan, that the certified results of the election  
14 represent the will of the voters."

15 9. One month prior to the election, Citizens Oversight and Mr. Lutz sent a letter to the  
16 Registrar and all other counties in the state of California notifying them of a desire to  
17 provide critical oversight to the One Percent Manual Tally process by obtaining the  
18 unofficial results of the election prior to the selection of the precincts (or batches, as the  
19 case may be). Thus, the Registrar knew of our concerns and desires to provide oversight  
20 of this portion of the canvass process, and the data file we would need.

21 10. The Registrar demonstrated that he doesn't even understand his own procedures. The One  
22 Percent Manual Tally requires that a sample of precincts or batches are selected as a test  
23 sample after unofficial results are obtained from the use of electronic counting machines.  
24 This selection process was conducted on June 8, the day after the election, starting at  
25 approximately 3pm. Plaintiff Mr. Lutz and other volunteers attended the selection  
26 process and the entire meeting was video recorded, and provided as evidence. (Exhibit 3  
27 to my initial Declaration, Notice of Lodgement No. 10) In this meeting, staff selected a  
28 number of "batches" of VBM ballots to be used in the sampling process of the election.

1 Reasonably inferred is that the Registrar was electing Election Code 15360(a)(2) rather  
2 than the claim by Mr. Vu and County Counsel that they are now abandoning that method  
3 and opting to use Election Code 15360(a)(1). After pointing out to staff that there was  
4 nothing in the procedure they distributed in the meeting about vote-by-mail batches, they  
5 continued to select batches. I continued to attempt to understand why they were choosing  
6 batches and asked questions during the meeting. Mr. Vu's staff worker said the matter  
7 would have to taken up with Mr. Vu. Because they were choosing batches, we asked for  
8 the corresponding data files that relate to each batch, since the election code defines the  
9 term "batch" to mean there is such a corresponding computer report which can be  
10 compared with a given batch. In fact, we had requested this data file in writing a month  
11 before the election so it would not be a surprise. After the meeting, the Registrar held an  
12 additional meeting on June 10 to choose another batch, because they said one of the  
13 originally chosen batches did not exist. The relevant email thread is attached as Exhibit F  
14 to FAC (verified) and Notice of Lodgement No. 6, as follows:

15 11. The issues were defined on June 10 by my subsequent email:

16  
17 **Subject:** 1% Manual Tally  
18 **From:** "Vu, Michael" <Michael.Vu@sdcountry.ca.gov>  
19 **Date:** 06/10/2016 8:24 AM  
20 **To:** Ray Lutz <raylutz@citizenoversight.org>

21 Ray:

22 It has come to my attention that when we pulled the random draw of one of our mail  
23 ballot batches, the batch number doesn't exist. As a result, we will need to randomly  
24 select another batch. It is my understanding that you were present when the draw was  
25 made and wanted to apprise you of this issue.

26 To resolve this situation, we will be publicly drawing another mail ballot batch to get  
27 to the needed 1% at 10 am this morning.

28 Should you have any questions, please let me know.

mv

Sent from my iPhone

1 **Subject:** Re: [Electionintegrity] 1% Manual Tally  
 2 **From:** Ray Lutz <raylutz@ciizenoversight.org>  
 3 **Date:** 06/10/2016 2:33 PM  
 4 **To:** "Vu, Michael" <Michael.Vu@sdcounty.ca.gov>  
 5 **CC:** "electionintegrity@ciizenoversight.org" <electionintegrity@ciizenoversight.org>

6 Michael:

7 Thank you for the update.

8 Two Problems:

9 1) I don't think you gave sufficient public notice of that public draw, as we were  
 10 unable to attend. Please provide the required public notice (72 hours I think) and  
 11 redraw that additional batch (plus the issue below).

12 2) While we are talking about the 1% manual tally, we would like to complain that the 1%  
 13 of the batches pulled in the random draw DOES NOT represent 1% of the mail ballot  
 14 batches expected in the election, but is 1% of the number of batches completed so far. A  
 15 larger number of batches is required to meet the 1% random draw legal requirement,  
 because it is 1% of the total, not 1% of the number processed so far. We understand that  
 about 290,000 VBM ballots were included in the initial batches and an additional 285,000  
 ballots were left to be counted according to your website the morning of the draw. Thus,  
 with 400 ballots in each batch, the total number of batches is  $290K+285K=575K$  ballots /  
 400 ballots per batch = 1438 batches; 1% (rounding up) would be 15 batches. You chose  
 only 7 batches. Please make this correction and chose an additional 8 batches.

16 --Ray Lutz

17 12. The Registrar refused on June 13, 2016.

18 **Subject:** RE: 1% Manual Tally  
 19 **From:** "Vu, Michael" <Michael.Vu@sdcounty.ca.gov>  
 20 **Date:** 06/13/2016 7:43 PM  
 21 **To:** Ray Lutz <raylutz@ciizenoversight.org>  
 22 **CC:** "electionintegrity@ciizenoversight.org" <electionintegrity@ciizenoversight.org>

23 Good Evening, Mr. Lutz.

24 To accommodate those that were in attendance for the initial pull, I will make  
 25 arrangements to have a separate mail ballot batch pulled on Thursday, June 16 at 9 am.

26 With regard to your second concern, we respectfully decline your request.

27 Kind Regards,

28 Michael

MICHAEL VU | REGISTRAR OF VOTERS | 858-505-7201 | SDVOTE.COM

13. Subsequent to filing this lawsuit on June 16, 2016, and serving a copy on the Registrar,

1 the Registrar changed the method of the One Percent Manual Tally (Election Code  
2 Section 15360(a)) from subsection 2 to subsection 1.

3 14. Mr. Vu states that the purpose of the pre-election logic and accuracy test is to ensure that  
4 vote tabulating system correctly counts the ballots. We agree with this. The logic and  
5 accuracy tests, conducted over a ten day period is sufficient to fully test the voting system  
6 to make sure it counts ballots correctly. Thus, the reason for the 1% manual tally is not  
7 simply to do this again but to further ensure election integrity post-election by detecting  
8 fraudulent activity either by compromised employees or external hackers.

9 15. "The purpose of the manual tally is to verify the accuracy of the voting systems that are  
10 used to count the ballots. It is not a recount of election results. (Vu Decl., p. 26, lines  
11 17-18.)" The statement is incomplete. The one percent manual tally can detect fraud if  
12 it is used correctly, and it should be utilized as intended. Citizens Oversight has  
13 identified an important methodology which can detect some types of central tabulator  
14 fraud using the 1% manual tally. It is not absolutely guaranteed to detect all types of  
15 fraud, but it has a chance of detecting some fraud. Correct implementation of the one  
16 percent manual tally will act as a deterrent to knowledgeable malfeasance.

17 16. "Utilizing the methodology set forth in Section 15360(a)(1), the Registrar projects that  
18 there will be 7,819 ballots included in the manual tally. (Vu Decl., p. 6, ll. 1-3.)" This is  
19 incorrect. Although the number of ballots included is 1%, the methodology in Section  
20 15360(a)(1) states that the those precincts should include all ballots cast. The Registrar  
21 has elected to omit about 285,000 ballots from the scrutiny of the random selection  
22 methodology.

23 17. First, to effectively use Section 15360(a)(1), all ballots cast must be included in  
24 unofficial results, and these results frozen so they cannot be modified. Then, the random  
25 selection of 1% of the precincts can be chosen, and the important thing here is that the  
26 selection is a surprise. Thus, ANY of the ballots could be chosen in the audit and there is  
27 no way to predict which ones will be included. Instead, the Registrar does not include all  
28 the ballots in the unofficial results. It is then untrue that ANY of the ballots could be

1 chosen at random, and it is possible to predict which ones will be excluded from the audit  
2 procedure. These ballots then may be changed by any compromised employee or hacker  
3 who has access to the central tabulator and it will impossible for the one percent manual  
4 tally to detect the fraud. Thus, for the one percent manual tally to test the integrity of the  
5 election process, the exclusion of major blocks of ballots is a non-starter.

6 18. If compliance with Section 15360 meant to sample only ballots completed by the end of  
7 election night to be included in the one percent manual tally, there would be Section  
8 15360(a)(2) would be unnecessary. The only difference in the two procedures is that  
9 subsection 2 allows vote-by-mail ballots can be processed incrementally, thereby  
10 allowing a large district like San Diego County to start on the one percent manual tally  
11 right away and then add more randomly chosen batches from each group of batches that  
12 is added to the entire set of ballots cast.

13 19. In the June 2016 primary, the set of precinct ballots was approximately 210,000 ballots  
14 split into 1522 consolidated precincts (Precincts). The average size of these Precincts is  
15 thus calculated to be 137 ballots. The set of vote-by-mail ballots processed by the end of  
16 election night were about 290,000 ballots split into batches of about 400 ballots, resulting  
17 in 730 batches. On June 8, the Registrar staff selected 8 batches from this set, roughly 1%  
18 of the batches in that set. It would have been possible then for the Registrar to work on  
19 the manual tally for those 8 batches while still continuing to accumulate ballots that were  
20 not subject to the audit in batches. According to figures on election night, there was an  
21 additional 285,000 ballots that were uncounted. Additional batches could have been  
22 randomly drawn from this group of batches and those could be manually tallied, thus  
23 including all the ballots cast in the manual tally process.

24 20. One additional point must be made that the term "batch" as defined in Section 15360  
25 means a set of ballots for which there is a computer report. For the optical tabulator to be  
26 effective in thwarting fraud and other vulnerabilities, the entire set of reports for all  
27 batches must be frozen and preferably handed to a third party prior to the random  
28 selection of those batches. This was not the case on June 8 when the optical tabulator

1 selections were first made because there was no computer report for the 730 batches  
2 included in the initial count. Citizens Oversight asked for the report but the Registrar did  
3 not have a report or did not want to provide it.

4 21. The clear intent of Section 15360 may be met by following six consistent steps: The  
5 important thing is that each group of ballots is processed in the following six steps: 1.  
6 Group them into batches and scan each batch until all batches are scanned for this group.  
7 If feasible, create a paper-tape audit trail for each batch scanned; 2. Secure the batches so  
8 they cannot be modified; 3. Create a computer report detailing the results for each batch,  
9 for all batches, and make this available to the public. Preferably also transfer this to a  
10 third party for safe keeping; 4. Select random batches; 5. Manually tally each batch  
11 pulled; 6. Compare with the frozen computer result.

12 22. The Brennan Center Report is the gold standard for understanding and implementation of  
13 a one percent manual tally audit that both fully complies with the law and is reliable and  
14 effective. "If the audit is to be effective, jurisdictions must have certain basic policies  
15 and practices in place. ... Audit the Entire Voting System, Not Just the Machines. In  
16 conducting post-election audits, election officials should not exclude any category of  
17 votes (e.g. absentee ballots, provisional ballots, damaged ballots). ... Excluding these  
18 ballots from an audit would leave a significant opportunity for errors to remain  
19 undetected." (Brennan Center Report, page 7)

20 Pursuant to the laws of the State of California, I declare under penalty of perjury that the  
21 foregoing is true and correct.

22  
23 Dated: 7/4/2016

  
Ray Lutz



**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**07/05/2016** at 08:54:00 AM  
Clerk of the Superior Court  
By Adam Beason, Deputy Clerk

1 Alan L. Geraci, Esq. SBN108324  
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8 Attorney for Plaintiffs, Citizens Oversight Inc. and Raymond Lutz

9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO-CENTRAL DIVISION**

11 CITIZENS OVERSIGHT INC., a Delaware )  
12 non-profit corporation; RAYMOND LUTZ, )  
13 an individual, )

14 Plaintiffs, )

15 vs. )

16 MICHAEL VU, San Diego Registrar of )  
17 Voters; HELEN N. ROBBINS-MEYER, )  
18 San Diego County Chief Administrative )  
19 Officer; COUNTY OF SAN DIEGO, a )  
20 public entity; DOES 1-10, )

21 Defendants. )

CASE NO: 37-2016-00020273-CL-MC-CTL

**DECLARATION OF BEN D. COOPER IN  
SUPPORT OF INJUNCTIVE RELIEF**

**Hon. Joel R. Wohlfeil, Judge**

Complaint filed: June 16, 2016  
No Trial Date Set

Hearing Date: July 6, 2016  
Hearing Time: 1:30 p.m.  
Dept: C-73

**Hon. Joel R. Wohlfeil**

22 I, BEN D. COOPER, declare as follows:

23 1. Since 1981, I have been a member in good standing of the State Bar of California. I am  
24 currently on inactive status. My State Bar Number is 97494.

25 2. Until December, 2015, for 35 years, I had been a resident and registered voter within the  
26 City of San Diego in the County of San Diego. In December, 2015, I relocated to West Palm  
27 Beach, Florida, where I now make my domicile and where I am now registered to vote. I am  
28 over the age of 18.

3. I am also a member of CitizensOversight.org.

4. I have personal knowledge of all facts stated herein, except those declared upon

1 information and belief, in which case I believe said facts to be true based upon matters  
2 represented to me by others. If called upon by the court to testify, I could do so competently.

3 5. I visited San Diego for approximately two weeks from June 5 through June 19, 2016. On  
4 or about Saturday, June 18, 2016, pursuant to the request of CitizensOversight.org, I participated  
5 briefly as an Election Observer for the purpose of observing "the mail and provisional ballot  
6 counting/canvassing process" underway at the office of the Registrar of Voters located at 5600  
7 Overland Drive, San Diego.

8 6. While I was at the Registrar's office that afternoon from approximately 3 p.m. to 4:30  
9 p.m. I was permitted to watch employees seated in cubicles on both sides of the entryway lobby,  
10 as they reviewed the information written on sealed envelopes, each of which I was informed  
11 contained vote by mail or provisional ballots from the June 7, 2016 Primary Election. Among  
12 other things, the employees would compare the voter's signature, address, and other information  
13 with the information on file in the Registrar's computerized database, and then sort the  
14 envelopes into separate piles or categories. On a few occasions, the employee would consult  
15 regarding questionable signatures or data with other employees who appeared to be their  
16 supervisors.

17 7. I was instructed not to speak with or interact with those employees but that if I had any  
18 questions I should ask one of the two young ladies who were essentially supervising my presence  
19 in the office as well as that of several other observers whom I did not know. I did ask each of the  
20 two young ladies several questions about the processes I was observing.

21 8. After watching the process described in the preceding paragraphs for an hour or so, I  
22 asked one of the aforementioned two young ladies if I could be allowed to go to any of the other  
23 "rooms" that she had described to me as rooms to which, after this initial review, the ballots  
24 would be sent for further review, processing, or "special handling" such as the "remake room."

25 9. While making this request, I was joined by two other observers asking similar questions  
26 and making similar requests to visit the "other rooms." At some point, a gentleman who I  
27 believe was addressed by the other employees as "Chris" joined our group. "Chris" appeared to  
28 me to be the person in charge of the activities being conducted and the employees present in the

1 office at that time. In response to my request to observe the "other rooms" he replied that they  
2 were all done for the weekend, and would resume work on Monday, June 20.

3 10. A conversation then ensued with my fellow observers and me asking questions about the  
4 provisional ballots. During this conversation, "Chris" explained why so many of the NPP voters  
5 had been given provisional ballots at the polls.

6 11. "Chris" referred to the ongoing controversy over the provisional ballots as the result of  
7 what the personnel in the Registrar's office were considering merely a "training issue."

8 12. He further explained that the precinct poll workers had been supplied with two versions  
9 of Democratic ballots. One version was the "regular" Democratic party ballot intended for  
10 registered Democrats, which contained all contests, including that for Democratic County  
11 Committee members, on which only registered Democrats could legally vote.

12 13. "Chris" further explained that the other Democratic ballot supplied to the precinct poll  
13 workers was the "Democratic Crossover Ballot," intended for NPP voters who wished to "cross  
14 over" and vote in the Democratic primary, mostly for one of the candidates for the Democratic  
15 Party presidential nomination. This "Democratic Crossover Ballot," contained only those  
16 contests in which NPP voters were permitted to vote.

17 14. "Chris" also explained the poll workers were "trained" that at the precinct polling places,  
18 unless those NPP voters who asked for a Democratic ballot or to vote in the Democratic primary  
19 used the precise words "Democratic Crossover Ballot," they were to give those NPP voters a  
20 "regular" Democratic ballot.

21 15. The poll workers were additionally "trained" not to interpret or question the NPP voters'  
22 intent, but rather, if they asked for a "Democratic ballot" or to "vote in the Democratic primary"  
23 to give them what they literally had asked for — the regular Democratic ballot containing all  
24 those races in which they were ineligible to vote, such as for candidates for Democratic Central  
25 Committee. The poll workers were instructed to then have the voter fill out envelopes into  
26 which to put their completed regular Democratic ballots. The envelopes would identify these as  
27 "provisional ballots."

28 16. "Chris" stated that in this way they were "protecting the voters' rights." I then responded

1 by joking with "Chris" that the Registrar's office had "shot themselves in the foot" generating  
2 unnecessary controversy by being overly concerned with "protecting the voters' rights" by  
3 responding to their requests literally. I suggested that "common sense" would have dictated that  
4 the poll workers should have been "trained" instead to give those NPP voters "Democratic  
5 Crossover Ballots" — that ballot containing the only offices on which they would have been  
6 legally entitled to vote.

7 17. Maintaining my jocular pose, I stated that the Registrar should have "trained" his poll  
8 workers instead to have been less considerate of "the voters' rights," but — from their position of  
9 superior legal knowledge, recognizing that NPPs asking to vote in the Democratic primary  
10 legally could only vote a "Democratic crossover ballot" — to act not on the precise "words of  
11 art" the uninformed voter might have uttered, but rather to follow the NPP voters' obvious intent  
12 and give them "Democratic Crossover Ballots" which would then not need to be treated as a  
13 provisional ballot.

14 18. "Chris" appeared to indicate that he agreed with my comments, and our conversation  
15 ended shortly thereafter.

16 19. Since there were no other rooms in which specialized functions were being performed at  
17 that time on the ballots, I then left the Registrar's office.

18  
19 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE  
20 OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

21  
22 Dated: July 5, 2016

23  
24   
25 BEN D. COOPER  
26  
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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**07/05/2016** at 08:54:00 AM  
Clerk of the Superior Court  
By Adam Beason, Deputy Clerk

1 Alan L. Geraci, Esq. SBN108324  
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8 Attorney for Plaintiffs, Citizens Oversight Inc. and Raymond Lutz

9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO—CENTRAL DIVISION**

11 CITIZENS OVERSIGHT INC., a Delaware )  
12 non-profit corporation; RAYMOND LUTZ, )  
13 an individual, )

14 Plaintiffs, )

15 vs. )

16 MICHAEL VU, San Diego Registrar of )  
17 Voters; HELEN N. ROBBINS-MEYER, )  
18 San Diego County Chief Administrative )  
19 Officer; COUNTY OF SAN DIEGO, a )  
20 public entity; DOES 1-10, )

21 Defendants. )

CASE NO: 37-2016-00020273-CL-MC-CTL

**PLAINTIFFS SUPPLEMENTAL NOTICE  
OF LODGEMENT OF EXHIBITS IN  
SUPPORT OF MOTION FOR INJUNCTIVE  
RELIEF**

**Hon. Joel R. Wohlfeil, Judge**

Complaint filed: June 16, 2016  
No Trial Date Set

Hearing Date: July 6, 2016  
Hearing Time: 1:30 p.m.  
Dept: C-73

**Hon. Joel R. Wohlfeil**

22 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

23 Plaintiffs hereby lodge the following additional exhibits in support of their Motion for  
24 Injunctive Relief:

25 Exhibit 1: Norden, Lawrence; Burstein, Joseph; et al "Post-Election Audits: Restoring Trust  
26 in Elections-Executive Summary, Brennan Center for Justice (2008);

27 Exhibit 2: Hall, Joseph Lorenzo, "Procedures for California's 1% Manual Tally;

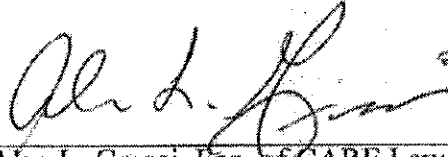
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1 Exhibit 3: Bowen, Debra, "California: State Senator Bowen Introduces Measure to Improve  
2 Election Audits

3  
4 Dated: July 5, 2016



5 Alan L. Geraci, Esq. of CARE Law Group PC,  
6 Attorneys for Plaintiffs Citizens Oversight Inc. and  
7 Raymond Lutz

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**07/05/2016** at 08:54:00 AM  
Clerk of the Superior Court  
By Adam Beason, Deputy Clerk

8 Attorney for Plaintiffs, Citizens Oversight Inc. and Raymond Lutz

9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO-CENTRAL DIVISION**

11 CITIZENS OVERSIGHT INC., a Delaware )  
12 non-profit corporation; RAYMOND LUTZ, )  
13 an individual, )  
14 Plaintiffs, )  
15 vs. )  
16 MICHAEL VU, San Diego Registrar of )  
17 Voters; HELEN N. ROBBINS-MEYER, )  
18 San Diego County Chief Administrative )  
19 Officer; COUNTY OF SAN DIEGO, a )  
20 public entity; DOES 1-10, )  
21 Defendants. )

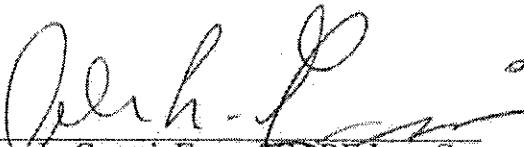
CASE NO: 37-2016-00020273-CL-MC-CTL  
**PLAINTIFFS REQUEST FOR JUDICIAL  
NOTICE IN SUPPORT OF MOTION FOR  
INJUNCTIVE RELIEF**  
**Hon. Joel R. Wohlfeil, Judge**  
Complaint filed: June 16, 2016  
No Trial Date Set  
Hearing Date: July 6, 2016  
Hearing Time: 1:30 p.m.  
Dept: C-73  
**Hon. Joel R. Wohlfeil**

22 Pursuant to California Evidence Code Sections 451 and 452, Plaintiffs hereby request that  
23 the Court take judicial notice of the following documents that are attached to Plaintiff's Notice of  
24 Lodgment filed concurrently with Plaintiffs moving papers and reply papers in support of  
25 Plaintiffs' Motion for Injunctive Relief:

- 26 Exhibit 1: Norden, Lawrence; Burstein, Joseph; et al "Post-Election Audits: Restoring Trust  
27 in Elections-Executive Summary, Brennan Center for Justice (2008);
- 28 Exhibit 2: Hall, Joseph Lorenzo, "Procedures for California's 1% Manual Tally;
- Exhibit 3: Bowen, Debra, "California: State Senator Bowen Introduces Measure to Improve  
Election Audits

1 Respectfully Submitted,

2 Dated: July 5, 2016

3   
4 Alan L. Geraci, Esq., of CARE Law Group,  
Attorneys for Citizens Oversight and Raymond Lutz

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1 THOMAS E. MONTGOMERY, County Counsel  
County of San Diego  
2 By TIMOTHY M. BARRY, Chief Deputy (State Bar No. 89019)  
STEPHANIE KARNAVAS, Senior Deputy (State Bar No. 25559)  
3 1600 Pacific Highway, Room 355  
San Diego, CA 92101-2469  
4 Telephone: (619) 531-6259  
E-mail: [timothy.barry@sdcounty.ca.gov](mailto:timothy.barry@sdcounty.ca.gov)  
5 *Exempt From Filing Fees (Gov't Code § 6103)*

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County of San Diego  
**07/06/2016** at 11:04:00 AM  
Clerk of the Superior Court  
By E-Filing, Deputy Clerk

6 Attorneys for Defendants  
7

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF SAN DIEGO**  
10 **CENTRAL DIVISION**

11 CITIZENS OVERSIGHT, INC., a Delaware  
non-profit corporation; RAYMOND LUTZ,  
12 an individual,

13 Plaintiffs,

14 v.

15 MICHAEL VU, San Diego Registrar of  
Voters, HELEN N. ROBBINS-MEYER, San  
16 Diego County Chief Administrative Officer,  
SAN DIEGO COUNTY, a public entity;  
17 DOES 1-10,

18 Defendants.  
19

No. 37-2016-00020273-CL-MC-CTL  
Action Filed: June 16, 2016

**DEFENDANTS' EVIDENTIARY  
OBJECTIONS TO THE DECLARATION  
OF BEN D. COOPER IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

**IMAGED FILE**

Date: July 6, 2016  
Time: 3:00 p.m.  
Dept.: 73  
ICJ: Hon. Joel Wohlfeil

20 Defendants hereby submit the following evidentiary objections to the declaration of Ben  
21 D. Cooper submitted in support of their motion for preliminary injunction:

22 **Objections to the Declaration of Ben D. Cooper**

23 At paragraphs 10 through 18 of Mr. Cooper's declaration he relates a conversation he  
24 purportedly had with an individual named "Chris". Defendants object to all of the comments  
25 attributed to "Chris" in that such statements are hearsay and lack foundation. In addition at

26 ////

27 ////

28 ////

0254

1 paragraph 18 of his declaration, Mr. Cooper states that “Chris’ appeared to indicate that he  
2 agreed with my comments.” Defendants object to this statement on the grounds that it is  
3 speculative and lacks foundation.

4 DATED: July 6, 2016

THOMAS E. MONTGOMERY, County Counsel

5  
6 By: /s/ Timothy M. Barry  
TIMOTHY M. BARRY, Chief Deputy  
7 Attorneys for Defendants  
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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**07/06/2016** at 11:04:00 AM  
Clerk of the Superior Court  
By E-Filing, Deputy Clerk

1 THOMAS E. MONTGOMERY, County Counsel  
County of San Diego  
2 By TIMOTHY M. BARRY, Chief Deputy (State Bar No. 89019)  
STEPHANIE KARNAVAS, Senior Deputy (State Bar No. 25559)  
3 1600 Pacific Highway, Room 355  
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4 Telephone: (619) 531-6259  
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5 *Exempt From Filing Fees (Gov't Code § 6103)*

6 Attorneys for Defendants

7  
8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF SAN DIEGO**  
10 **CENTRAL DIVISION**

11 CITIZENS OVERSIGHT, INC., a Delaware  
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14 v.

15 MICHAEL VU, San Diego Registrar of  
Voters, HELEN N. ROBBINS-MEYER, San  
16 Diego County Chief Administrative Officer,  
SAN DIEGO COUNTY, a public entity;  
17 DOES 1-10,

18 Defendants.

No. 37-2016-00020273-CL-MC-CTL  
Action Filed: June 18, 2016

**DEFENDANTS' OBJECTIONS TO  
PLAINTIFFS' SUPPLEMENTAL  
REQUEST FOR JUDICIAL NOTICE  
AND NOTICE OF LODGMENT**

**IMAGED FILE**

Date: July 6, 2016  
Time: 3:00 p.m.  
Dept.: C-73  
ICJ: Hon. Joel Wohlfeil

19  
20 Defendants respectfully object to Plaintiffs' Supplemental Request for Judicial Notice  
21 ("RJN") and Supplemental Notice of Lodgment ("NOL"), including the documents apparently  
22 lodged therewith, on the following grounds:

23 Defendants object first to all three of the exhibits Plaintiffs lodged with the Court in  
24 connection with the Supplemental RJN and NOL on grounds that these documents were not  
25 served on Defendants. Because Defendants have not been provided the documents and  
26 additionally, because they were submitted with Plaintiffs' reply, Defendants have been deprived  
27 of the opportunity to fully respond to them, and they should not be considered by the Court. *See*  
28 *San Diego Watercrafts, Inc., v. Wells Fargo Bank*, 102 Cal.App.4th 308, 316 (2002)

1 (consideration of evidence submitted with reply to motion for summary judgment violated  
2 opposing party's due process rights because opposing party not given notice or opportunity to  
3 respond).

4 **Plaintiffs' Supplemental RJN and NOL Exhibit 1:** Plaintiffs identify this document as  
5 "Norden, Lawrence; Burstein, Joseph; et al 'Post-Election Audits: Restoring Trust in Elections-  
6 Executive Summary, Brennan Center for Justice (2008)." Plaintiffs presumably attempt to rely  
7 on this document as evidence that their methodology for conducting the tally is superior to that  
8 utilized by the County of San Diego. See Plaintiffs' Reply brief at fn. 3, and p. 6-7. Based on  
9 the title, this document appears to be a scholarly article sponsored by a law and policy institute  
10 affiliated with the New York University School of Law.

11 California Evidence Code section 450 states: "Judicial notice may not be taken of any  
12 matter unless authorized or required by law." Plaintiffs have not cited any authority that would  
13 permit this court to take judicial notice of this article. Evidence Code section 451 enumerates  
14 the matters of which a court must take judicial notice and Evidence Code section 452  
15 enumerates the matters of which a court may take judicial notice. Scholarly articles of the type  
16 offered here are not listed in either of those statutory provisions. Therefore, Evidence Code  
17 section 450 bars the taking of judicial notice.

18 Additionally, to the extent Plaintiffs are asking the Court to take judicial notice of the  
19 truth of the matters asserted in the article, their request is improper. See *Mangini v. R. J.*  
20 *Reynolds Tobacco Co.*, 7 Cal.4th 1057, 1063-64 (1994)(*Mangini*), overruled on other grounds in  
21 *In re Tobacco Cases II*, 41 Cal.4th 1257, 1276 (2007). Lastly, Defendants object to the  
22 document on grounds that it has not been properly authenticated, contains inadmissible hearsay,  
23 and is irrelevant to question here as to whether Plaintiffs have met their burden for the issuance  
24 of a preliminary injunction.

25 **Plaintiffs' Supplemental RJN and NOL Exhibit 2:** Plaintiffs identify this document as  
26 "Hall, Joseph Lorenzo, 'Procedures for California's 1% Manual Tally.'" It is unclear for what  
27 purpose Plaintiffs seek to rely on this document because it is not cited in their Reply brief. As  
28 with Exhibit 1, presumably Plaintiffs attempt to rely on this document as evidence that their

1 methodology for conducting the tally is superior to that utilized by the County of San Diego. <sup>0257</sup>  
2 Based on the title, this document appears to be an article written by an individual that opines on  
3 the manual tally procedure. Plaintiffs have not cited any authority that would permit this court  
4 to take judicial notice of this article. Thus, for the same reasons explained above, the Evidence  
5 Code bars the taking of judicial notice of this document. Evid. Code §§ 450-452. Additionally,  
6 to the extent Plaintiffs are asking the Court to take judicial notice of the truth of the matters  
7 asserted in the article, their request is improper. *See Mangini*, 7 Cal.4th at 1063-64. Lastly,  
8 Defendants object to the document on grounds that it has not been properly authenticated,  
9 contains inadmissible hearsay, and is irrelevant to question here as to whether Plaintiffs have  
10 met their burden for the issuance of a preliminary injunction.

11 **Plaintiffs' Supplemental RJN and NOL Exhibit 3:** Plaintiffs identify this document as  
12 Exhibit 3: "Bowen, Debra, 'California: State Senator Bowen Introduces Measure to Improve  
13 Election Audits.'" It is unclear whether this document is a news article or something else. It is  
14 further unclear for what purpose Plaintiffs offer the document, because it is not referenced in the  
15 Reply brief. California Evidence Code section 450 states: "Judicial notice may not be taken of  
16 any matter unless authorized or required by law." Defendants object to this document on  
17 grounds that it does not constitute matter that the Court may properly take notice of under  
18 Evidence Code sections 451-452. Additionally, to the extent Plaintiffs are asking the Court to  
19 take judicial notice of the truth of the matters asserted in the document, their request is improper.  
20 *See Mangini*, 7 Cal.4th at 1063-64. Lastly, Defendants object to the document on grounds that it  
21 has not been properly authenticated, contains inadmissible hearsay, and is irrelevant to question  
22 here as to whether Plaintiffs have met their burden for the issuance of a preliminary injunction.

23 DATED: July 6, 2016

THOMAS E. MONTGOMERY, County Counsel

24  
25 By: /s/ Timothy M. Barry  
TIMOTHY M. BARRY, Chief Deputy  
26 Attorneys for Defendants  
27  
28

1 THOMAS E. MONTGOMERY, County Counsel  
County of San Diego  
2 By TIMOTHY M. BARRY, Chief Deputy (State Bar No. 89019)  
STEPHANIE KARNAVAS, Senior Deputy (State Bar No. 255596)  
3 1600 Pacific Highway, Room 355  
San Diego, CA 92101-2469  
4 Telephone: (619) 531-6259  
E-mail: [timothy.barry@sdcounty.ca.gov](mailto:timothy.barry@sdcounty.ca.gov)  
5 *Exempt From Filing Fees (Gov't Code § 6103)*

JUL 6 '16 AM 11:40  
L E D  
Chief of the Superior Court  
JUL 06 2016  
By: M. SPIESMAN, Deputy

6 Attorneys for Defendants

7  
8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF SAN DIEGO**  
10 **CENTRAL DIVISION**

11 CITIZENS OVERSIGHT, INC., a Delaware  
non-profit corporation; RAYMOND LUTZ,  
12 an individual,  
13 Plaintiffs,  
14 v.  
15 MICHAEL VU, San Diego Registrar of  
Voters, HELEN N. ROBBINS-MEYER, San  
16 Diego County Chief Administrative Officer,  
SAN DIEGO COUNTY, a public entity;  
17 DOES 1-10,  
18 Defendants.

No. 37-2016-00020273-CL-MC-CTL  
Action Filed: June 16, 2016

**DEFENDANTS' EVIDENTIARY  
OBJECTIONS TO THE DECLARATION  
OF BEN D. COOPER IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

**IMAGED FILE**

Date: July 6, 2016  
Time: 3:00 p.m.  
Dept.: 73  
ICJ: Hon. Joel Wohlfeil

20 Defendants hereby submit the following evidentiary objections to the declaration of Ben  
21 D. Cooper submitted in support of their motion for preliminary injunction:

22 **Objections to the Declaration of Ben D. Cooper**

23 At paragraphs 10 through 18 of Mr. Cooper's declaration he relates a conversation he  
24 purportedly had with an individual named "Chris". Defendants object to all of the comments  
25 attributed to "Chris" in that such statements are hearsay and lack foundation. In addition at

26 ///  
27 ///  
28 ///

1 paragraph 18 of his declaration, Mr. Cooper states that “Chris’ appeared to indicate that he  
2 agreed with my comments.” Defendants object to this statement on the grounds that it is  
3 speculative and lacks foundation.

4 DATED: July 6, 2016

THOMAS E. MONTGOMERY, County Counsel

5  
6 By: /s/ Timothy M. Barry  
TIMOTHY M. BARRY, Chief Deputy  
7 Attorneys for Defendants  
8  
9  
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**F I L E D**

Clerk of the Superior Court

JUL 06 2016

**DECLARATION OF SERVICE**

I, the undersigned, declare under penalty of perjury that I am over the age of eighteen years and not a party to the case; I am employed in the County of San Diego, California. My business address is 1600 Pacific Highway,\*Room 355, San Diego, California, 92101.

On July 6, 2016, I served the following documents:

- 1. **DEFENDANTS' EVIDENTIARY OBJECTIONS TO THE DECLARATION OF BEN D. COOPER IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION; and**
- 2. **DEFENDANTS' OBJECTIONS TO PLAINTIFFS' SUPPLEMENTAL REQUEST FOR JUDICIAL NOTICE AND NOTICE OF LODGMENT.**

In the following manner:

**(BY E-mail)** I cause to be transmitted a copy of the foregoing document(s) this date via OneLegal System, which electronically notifies all counsel as follows:

Alan L. Geraci, Esq.  
CARE Law Group PC  
817 W. San Marcos Blvd.  
San Marcos, CA 92078  
Ph: (619) 231-3131 Fax: (760) 650-3484  
[alan@carelaw.net](mailto:alan@carelaw.net)

Executed on July 6, 2016, at San Diego, California.

By   
ODETTE ORTEGA



**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**07/06/2016** at 12:17:00 PM  
Clerk of the Superior Court  
By E-Filing, Deputy Clerk

1 Alan L. Geraci, Esq. SBN108324  
2 **CARE Law Group PC**  
3 817 W. San Marcos Blvd.  
4 San Marcos, CA 92078  
5 619-231-3131 telephone  
6 760-650-3484 facsimile  
7 [alan@carelaw.net](mailto:alan@carelaw.net) email

8 Attorney for Plaintiffs, Citizens Oversight Inc. and Raymond Lutz

9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO-CENTRAL DIVISION**

11 CITIZENS OVERSIGHT INC., a Delaware )  
12 non-profit corporation; RAYMOND LUTZ, )  
13 an individual, )

14 Plaintiffs, )

15 vs. )

16 MICHAEL VU, San Diego Registrar of )  
17 Voters; HELEN N. ROBBINS-MEYER, )  
18 San Diego County Chief Administrative )  
19 Officer; COUNTY OF SAN DIEGO, a )  
20 public entity; DOES 1-10, )

21 Defendants. )

CASE NO: 37-2016-00020273-CL-MC-CTL

**DECLARATION OF ALAN L. GERACI  
REGARDING SERVICE OF DOCUMENTS  
AND EXHIBITS: PLAINTIFFS' MOTION  
FOR INJUNCTIVE RELIEF**

**Hon. Joel R. Wohlfeil, Judge**

Complaint filed: June 16, 2016  
No Trial Date Set

Hearing Date: July 6, 2016  
Hearing Time: 1:30 p.m.  
Dept: C-73

22 I, Alan L. Geraci, declare as follows:

- 23 1. I am an attorney duly licensed to practice law in the State of California. I am attorney of  
24 record for Plaintiffs, Citizens Oversight Inc. and Raymond Lutz.
- 25 2. I have personal knowledge of the matters stated herein and if called upon I would so  
26 testify.
- 27 3. I filed substitution of counsel for Raymond Lutz and filed a First Amended Complaint  
28 adding Citizens Oversight Inc. on June 23, 2016.
4. Counsel for the Defendants, Timothy Barry, Chief Deputy County Counsel, and I reached  
a stipulation concerning service of process by electronic delivery also on June 23, 2016.

- 1 5. Upon the completing the Motion for Injunctive Relief herein, upon my attempted service  
2 by using Mr. Barry's email account Timothy.Barry@sdcounty.ca.gov, I began to  
3 experience "bounce back" on email attempts due to an error message concerning the  
4 "maximum size" of documents. I brought this issue to Mr. Barry's attention at both the  
5 June 23, 2016, ex parte hearing for the accelerated scheduling order and at the June 30,  
6 2016, hearing for temporary restraining order. Mr. Barry acknowledged the problem and  
7 stated that "it is being worked on and should not be a problem again."
- 8 6. Despite the reassurance, I cured the issue by opening an account in Dropbox for Mr.  
9 Barry and his associate, Stephanie Karnavas at Stephanie.Karnavas@sdcounty.ca.gov and  
10 sending them access invitations to the account. I received acknowledgment from both  
11 Mr. Barry and Ms. Karnavas that documents had been received.
- 12 7. Upon receiving Mr. Barry's recent objection to exhibits submitted as part of the reply  
13 brief and declarations, I again emailed Mr. Barry and placed an additional copy of  
14 exhibits into the aforementioned Dropbox account.

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

17  
18 Dated: July 6, 2016

19  
20   
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23  
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25  
26  
27  
28  
Alan L. Geraci

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO

CENTRAL

0263

MINUTE ORDER

DATE: 07/06/2016

TIME: 03:00:00 PM

DEPT: C-73

JUDICIAL OFFICER PRESIDING: Joel R. Wohlfeil

CLERK: Juanita Cerda

REPORTER/ERM: Christina Lothar CSR# 8624

BAILIFF/COURT ATTENDANT: R. Camberos

CASE NO: **37-2016-00020273-CL-MC-CTL** CASE INIT.DATE: 06/16/2016

CASE TITLE: **Lutz vs Michael Vu [IMAGED]**

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

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**EVENT TYPE:** Motion Hearing (Civil)

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**APPEARANCES**

Alan L Geraci, counsel, present for Plaintiff(s).

Raymond Lutz, Plaintiff is present.

Michael Vu , self represented Defendant, present.

Timothy Barry, counsel, present for the County of San Diego

Stephanie Karnavas, counsel, present for the County of San Diego

---

The Court, after hearing oral argument and taking into consideration papers filed, takes the matter under submission.

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO

CENTRAL

0264

MINUTE ORDER

DATE: 07/25/2016

TIME: 10:53:00 AM

DEPT: C-73

JUDICIAL OFFICER PRESIDING: Joel R. Wohlfeil

CLERK: Juanita Cerda

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT:

CASE NO: 37-2016-00020273-CL-MC-CTL CASE INIT.DATE: 06/16/2016

CASE TITLE: Lutz vs Michael Vu [IMAGED]

CASE CATEGORY: Civil - Limited

CASE TYPE: Misc Complaints - Other

---

APPEARANCES

---

After entertaining the arguments of counsel and taking the matter under submission, the Court now rules as follows:

The Application of Plaintiffs Citizens Oversight Inc. and Raymond Lutz ("Plaintiffs") for a Preliminary Injunction to direct Defendants MICHAEL VU, San Diego Registrar of Voters, HELEN N. ROBBINS-MEYER, San Diego County Chief Administrative Officer, and COUNTY OF SAN DIEGO ("Defendants") to comply with California Election Code Section 15360, in certifying the Primary Election results of June 7, 2016, is DENIED AS MOOT, without prejudice, as reflected below.

First, the Court takes judicial notice of the July 15, 2016 press release from the California Secretary of State certifying California's June statewide primary results. Evid. Code 452(c). (<http://www.sos.ca.gov/administration/news-releases-and-advisories/2016-news-releases-and-advisories/secretary-state-padilla-certifies-election-results/>). The Court infers that the state certification also entails the certification of the San Diego County primary results. As a result, the Application for preliminary injunction is MOOT as to Plaintiff's request for injunctive relief for the certification of the June 7, 2016 election. "In dismissing the appeal as moot...reversal of the judgment could not afford the plaintiffs relief because the issuance of an injunction restraining the defendant from doing that which he has already done, would be an idle and frivolous act, since such decision would have no binding authority and would not affect the legal rights of the parties." Finnie v. Town of Tiburon (1988) 199 Cal. App. 3d 581, 586. "... [A]lthough a case may originally present an existing controversy, if before decision it has, through act of the parties or other cause, occurring after the commencement of the action, lost that essential character it becomes a moot case or question which will not be considered by the court." Wilson v. Los Angeles County Civil Service Commission (1952) 112 Cal. App. 2d 450, 453.

However, the Court is cognizant of the importance and exigent circumstances in this action, thereby necessitating an expedited ruling in this matter. Although moot to the Primary Election results of June 7, 2016, when an issue of broad public interest is posed, the Court may exercise its inherent discretion to resolve the issue. Johnson v. Hamilton (1975) 15 Cal. 3d 461, 465.

Liberally construing the first cause of action for declaratory relief in Plaintiff's First Amended Complaint

---

DATE: 07/25/2016

MINUTE ORDER

Page 1

DEPT: C-73

Calendar No.

(FAC"), Plaintiff appears to seek a declaration regarding all future elections, which may recur as imminently as the upcoming November election. Therefore, the first cause of action is not moot.

The "1 percent manual tally is a procedure used in California to test whether there are any discrepancies between the electronic record generated by a voting machine and what is essentially a manual audit of that electronic record." Nguyen v. Nguyen (2008) 158 Cal. App. 4th 1636, 1643. In accordance with California law, the official canvas must include a manual tally as a means of verifying the accuracy of the system count. Elec. Code 15360. "This procedure is conducted during the official canvass to verify the accuracy of the automated count." Elec. Code 336.5.

Section 15360 provides two alternative methods to conduct this manual tally, using section 15360(a) (1) or 15360(a) (2). Initially, Defendants opted to conduct the 1 percent manual tally under section 15360(a) (2). A public notice was subsequently posted on the San Diego County Registrar's website. Thereafter, Defendants' chose to conduct the 1 percent manual tally utilizing section 15360(a) (1). Declaration of Vu, pg. 6, 1-2.

California Elections Code 15360(a) (1), reads in relevant part:

(a) During the official canvass ... the official conducting the election shall conduct a public manual tally of the ballots tabulated by those devices, including vote by mail ballots, using either of the following methods:

(1) (A) A public manual tally of the ballots, including vote by mail ballots, cast in 1 percent of the precincts chosen at random by the elections official. If 1 percent of the precincts is less than 1 whole precinct, the tally shall be conducted in 1 precinct chosen at random by the elections official.

Plaintiffs provide evidence that Defendants are not complying with the elections code by failing to include all ballots cast in 1 percent of the precincts chosen at random. Specifically, Plaintiffs demonstrate Defendants are in violation of the statute by 1) not including any provisional ballots in the manual tally, and 2) by not including all vote by mail ballots.

The legislative history of California Elections Code 15360, amended in 2006, provides insight:

SB 1235 stems from anecdotal reports that some counties routinely exclude absent voter and provisional ballots from the 1% manual tally process and may not be choosing the relevant precincts in a truly "random" manner." California Bill Analysis, S.B. 1235 Sen., 4/19/2006.

The comments addressing auditing for accuracy provides:

"Requiring all of the ballots – not just those cast at the polling place on Election Day – in a given precinct to be a part of the 1percent audit should increase the thoroughness and the reliability of the audit. Absent a complete count of all of the ballots in a precinct that's subject to the 1% audit, it's difficult to see how elections officials can argue they've complied with the audit requirements under the law." California Bill Analysis, S.B. 1235 Sen., 4/19/2006.

Therefore, in reviewing the legislative intent and explicit text of section 15360, there is a reasonable probability Plaintiffs will prevail. Section 15360 requires election officials to include Vote-by-Mail ballots cast and provisional ballots when conducting the one percent manual tally. Defendants did not do this.

0266

Defendants demonstrate that complying with section 15360 will require additional "man hours" and additional costs in excess of \$100,000. Vu Dec. (ROA # 35), par's 21, 30, 36.

Defendants also argue completing the manual tally process as soon as possible is a "prudent business practice." Opposition, p. 12, par's 15-16. County elections officials have approximately one month to complete their extensive tallying, auditing, and certification work so they can timely send a report to the California Secretary of State.

Plaintiffs' argue they 1) will be deprived of the verification required by law and 2) the integrity of the election results will be compromised if Defendants are not in compliance with section 15360. Section 15360 was enacted to serve as a check on the election process by means of a manual audit. Notwithstanding the fact that San Diego County Registrar does not include provisional ballots in their manual tally procedure, a practice consistent with other counties (ROA #'s 36 - 42), it does not follow that Defendants are therefore in compliance with section 15360. The San Diego County Registrar of Voters has a legal obligation to comply with section 15360. It is imperative that auditing requirements are followed completely in order to ensure the continued public confidence of election results. The San Diego County Registrar of Voters is obligated to allocate its resources appropriately in order to comply with the law. If Defendants are unable to do so, they must seek redress with the legislative or executive branches of government, not the Court.

Defendants' Request (ROA # 32) for judicial notice is GRANTED.

Defendants' evidentiary objections (ROA # 33) are SUSTAINED IN PART AND OVERRULED IN PART. Nos. 1, 3 and 5 are SUSTAINED. Nos. 2, 4, 6, 7 and Exh "3" are OVERRULED.

Plaintiff's request (ROA # 51) for judicial notice, is DENIED.

Defendants' evidentiary objections (ROA # 56) to the Declaration of Ben D. Cooper, are OVERRULED.

Defendants' evidentiary objections (ROA # 57) to Plaintiff's supplemental request for judicial notice are SUSTAINED.



---

Judge Joel R. Wohlfeil

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**08/09/2016** at 11:23:00 AM  
Clerk of the Superior Court  
By Rachel Harmon, Deputy Clerk

1 Alan L. Geraci, Esq. SBN108324  
2 **CARE LAW GROUP PC**  
3 817 W. San Marcos Blvd.  
4 San Marcos, CA 92078  
5 619-231-3131 telephone  
6 760-650-3484 facsimile  
7 [alan@carelaw.net](mailto:alan@carelaw.net) email  
8 Attorney for Plaintiffs. Citizens Oversight Inc. and Raymond Lutz

9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO—CENTRAL DIVISION**

11 CITIZENS OVERSIGHT INC., a Delaware  
12 non-profit corporation; RAYMOND LUTZ,  
13 an individual,

14 Plaintiff,

15 v.

16 MICHAEL VU, San Diego Registrar of  
17 Voters; HELEN N. ROBBINS-MEYER, San  
18 Diego County Chief Administrative Officer;  
19 COUNTY OF SAN DIEGO, a public entity;  
20 DOES 1-10,

21 Defendants.

CASE NO: 37-2016-00020273-CL-MC-CTL

**STIPULATION AND ORDER GRANTING  
LEAVE TO FILE SECOND AMENDED  
COMPLAINT**

Hon. Joel R. Wohlfeil, Judge

Complaint filed: June 16, 2016  
No Trial Date Set

22 COME NOW, Plaintiffs, through counsel Alan L. Geraci, Esq. of CARE Law Group PC  
23 and Defendants, through counsel Timothy M. Barry, Chief Deputy County Counsel, who  
24 stipulate as follows:

25 This action against County of San Diego election officials was filed on or about June 16,  
26 2016, with Plaintiff Lutz filing his complaint for declaratory relief in pro per. The gravamen of  
27 the complaint concerns the rights, duties and obligations of the parties surrounding Elections  
28 Code Section 15360.


Plaintiff Lutz then substituted Alan L. Geraci and CARE Law Group PC as attorney of  
record while a First Amended Complaint was filed adding Plaintiff Citizens Oversight Inc. and a

1 cause of action for injunctive relief. Plaintiffs now wish to further amend their complaint by  
2 adding a cause of action for mandamus pursuant to Code of Civil Procedure Section 1085.


3 The parties, through counsel, have met and conferred and agree that judicial economy is  
4 served by entering into this stipulation and agree to avoid Defendants having to respond to the  
5 First Amended Complaint and Plaintiffs requesting leave to amend. It is further agreed that  
6 Defendants shall have 30 days from the date of the filing of the Second Amended Complaint, a  
7 copy of which is attached hereto, within which to file a response or answer to the Second  
8 Amended Complaint.

9 So Stipulated.

10 DATED: 8/9/16


  
By: Alan L. Geraci, Esq. of CARE Law Group PC,  
Attorneys for Plaintiffs Citizens Oversight Inc. and  
Raymond Lutz

14 DATED: 8/8/16

  
By: Timothy M. Barry, Chief Deputy County  
Counsel for Defendants, County of San Diego, et al

16 Parties' acknowledgement:

17 DATED: 8/8/16

  
Raymond Lutz, individually and on behalf of Citizens  
Oversight Inc.

20 DATED: 8/8/16

  
Michael Vu, San Diego Registrar

22 FOR GOOD CAUSE, the Court accepts the stipulation of the parties and grants Plaintiffs  
23 leave to file his and its Second Amended Complaint forthwith. Defendants shall have 30 days  
24 from the date of the filing of the Second Amended Complaint within which to respond or answer  
25 this Second Amended Complaint.

26 DATED: 8/10/16

  
Judge Joel R. Wohlfeil  
Judge of the Superior Court



ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NO NAME Alan L. Geraci SBN108324 FIRM NAME CARE Law Group PC STREET ADDRESS 817 W. San Marcos Blvd. CITY TELEPHONE NO. 619-261-2048 STATE ZIP CODE FAX NO. 760-650-3484 E-MAIL ADDRESS alan@carelaw.net ATTORNEY FOR (name): Plaintiff Citizens Oversight Inc., Ray Lutz	<b>ELECTRONICALLY FILED</b> Superior Court of California, County of San Diego <b>08/09/2016 at 11:23:00 AM</b> Clerk of the Superior Court By Rachel Harmon, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS 330 W. Broadway MAILING ADDRESS CITY AND ZIP CODE San Diego, CA 92101 BRANCH NAME Central	
Plaintiff/Petitioner: Citizens Oversight Inc. and Raymond Lutz Defendant/Respondent: Michael Vu, San Diego Registrar of Voters, et al	CASE NUMBER <b>37-2016-00020273</b> JUDICIAL OFFICER <b>73</b> DEPARTMENT Hon. Joel R. Wohlfeil
<b>PROOF OF ELECTRONIC SERVICE</b>	

1. I am at least 18 years old.
  - a. My residence or business address is (specify): 817 W. San Marcos Blvd, San Marcos, CA 92078
  - b. My electronic service address is (specify): alan@carelaw.net
  
2. I electronically served the following documents (exact titles): (Lodged) Stipulation and Order Granting Leave to File Second Amended Complaint (without court's signature)
 

The documents served are listed in an attachment (Form POS-050(D)/EFS-050(D) may be used for this purpose.)
  
3. I electronically served the documents listed in 2 as follows:
  - a. Name of person served: Timothy Barry, Chief Deputy County Counsel  
 On behalf of (name or names of parties represented, if person served is an attorney): Michael Vu, San Diego County Registrar of Voters; Helen N. Robbins-Meyer, San Diego County Chief Administrative Officer; County of San Diego, a public entity
  - b. Electronic service address of person served: Timothy.Barry@sdcounty.ca.gov
  - c. On (date): 8/9/2016
  - d. At (time): 12:00 p.m.


The documents listed in item 2 were served electronically on the persons and in the manner described in an attachment. (Form POS-050(P)/EFS-050(P) may be used for this purpose.)

Date: 8/9/2016

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

Alan L. Geraci

(TYPE OR PRINT NAME OF DECLARANT)

  
 (SIGNATURE OF DECLARANT)

**08/10/2016** at 12:07:00 PM  
Clerk of the Superior Court  
By Marivel Martinez-Frengel, Deputy Clerk

1 Alan L. Geraci, Esq. SBN108324  
2 **CARE Law Group PC**  
3 817 W. San Marcos Blvd.  
4 San Marcos, CA 92078  
5 619-231-3131 telephone  
6 760-650-3484 facsimile  
7 [alan@carelaw.net](mailto:alan@carelaw.net) email

8 Attorney for Plaintiffs, Citizens Oversight Inc. and Raymond Lutz

9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO--CENTRAL DIVISION**

11 CITIZENS OVERSIGHT INC., a Delaware )  
12 non-profit corporation; RAYMOND LUTZ, )  
13 an individual, )

14 Plaintiffs, )

15 vs. )

16 MICHAEL VU, San Diego Registrar of )  
17 Voters; HELEN N. ROBBINS-MEYER, )  
18 San Diego County Chief Administrative )  
19 Officer; COUNTY OF SAN DIEGO, a )  
20 public entity; DOES 1-10, )

21 Defendants. )

CASE NO: 37-2016-00020273-CL-MC-CTL

**EX PARTE DECLARATION OF ALAN L. GERACI AND REQUEST FOR EXPEDITED TRIAL SETTING**

**Hon. Joel R. Wohlfeil, Judge**

Complaint filed: June 16, 2016  
No Trial Date Set

Ex Parte Hearing: August 11, 2016  
Ex Parte Hearing Time: 8:30 a.m.  
Department: C-73

22 I, Alan L. Geraci, declare:

- 23 1. I am an attorney at law licensed in good standing to practice in all courts within the State
- 24 of California. I am attorney of record for Plaintiffs in the above-captioned matter.
- 25 2. I have personal knowledge of the matters stated herein and if called upon to testify, I am a
- 26 competent witness.
- 27 3. The purpose of this *ex parte* hearing request is to seek clarification of the court's
- 28 expedited ruling on Plaintiffs declaratory relief cause of action dated July 25, 2016, to seek confirmation that the parties' stipulation for leave to file second amended complaint has been received and ordered by the Court, and insofar as it is necessary, to seek an

1 expedited trial setting for this matter.

2 4. The parties are attempting to resolve the totality of the matter by settlement agreement,  
3 but have not yet done so.

4 5. The ruling and minute order of July 25, 2016, states that the court is "cognizant of the  
5 importance and exigent circumstances in this action, thereby necessitating an expedited  
6 ruling in this matter." Further, the Court states that "Plaintiff appears to seek a  
7 declaration regarding all future elections, which may recur as imminently as the  
8 upcoming November election. Therefore, the first cause of action (of FAC) is not moot."

9 6. Juxtaposition the Courts comments in paragraph 5 with its conclusion which states  
10 "(t)herefore, in reviewing the legislative intent and explicit text of section 15360, there is  
11 a reasonable probability Plaintiffs will prevail. Section 15360 requires election officials  
12 to include Vote-by-Mail ballots cast and provisional ballots when conducting the one  
13 percent manual tally. Defendants did not do this."

14 7. Moreover, the Court rules "section 15360 was enacted to serve as a check on the election  
15 process by means of a manual audit. Notwithstanding the fact that San Diego County  
16 Registrar does not include provisional ballots in their manual tally procedure, a practice  
17 consistent with other counties (citation), it does not follow that Defendants are therefor in  
18 compliance with section 15360. The San Diego County Registrar of Voters has a legal  
19 obligation to comply with section 15360. It is imperative that auditing requirements are  
20 followed completely in order to ensure the continued public confidence of elections  
21 results."

22 8. Plaintiffs proposed Second Amended Complaint has the identical cause of action for  
23 Declaratory Relief, but also seeks mandamus for actions taken by the Registrar in the  
24 recent June 7, 2016, primary election.

25 9. Clarification is needed as to the Court's "expedited" ruling as a final determination of the  
26 legal issue of the effect of Section 15360 or as a preliminary ruling for the purpose of  
27 framing issues at trial. If the former, Plaintiffs will prepare a Judgment and conclude the  
28 matter and withdraw the request to file a Second Amended Complaint. If the latter, then

1 the Second Amended Complaint needs to be filed and an expedited trial setting is  
2 required so that the matter may be entirely resolved before the November 2016 election  
3 which is to occur on November 8, 2016. Because the Registrar begins the canvass of the  
4 ballots before Election Day, we will need to have a trial scheduled by mid-October in  
5 order for the Court ruling to be effective for the November 8, 2016, election canvass.  
6 Cognizant of the Court's very tight schedule for matters on its docket, Plaintiffs wanted  
7 to address these matters *ex parte* so that these concerns may be addressed and scheduled.  
8

9 Pursuant to the laws of the State of California, I declare under penalty of perjury that the  
10 foregoing is true and correct.

11  
12 Dated: August 10, 2016

  
By: Alan L. Geraci, Esq of CARE Law  
Group PC, Attorneys for Plaintiffs Citizens  
Oversight Inc. and Raymond Lutz

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO. NAME: Alan L. Geraci SBN108324 FIRM NAME: CARE Law Group PC STREET ADDRESS: 817 W. San Marcos Blvd. CITY: TELEPHONE NO.: 619-261-2048 STATE: ZIP CODE: FAX NO.: 760-650-3484 E-MAIL ADDRESS: alan@carelaw.net ATTORNEY FOR (name): Plaintiff Citizens Oversight Inc., Ray Lutz	FOR COURT USE ONLY  CASE NUMBER: 37-2016-00020273 JUDICIAL OFFICER: 73 DEPARTMENT: Hon. Joel R. Wohlfeil
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 W. Broadway MAILING ADDRESS: CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Central	
Plaintiff/Petitioner: Citizens Oversight Inc. and Raymond Lutz Defendant/Respondent: Michael Vu, San Diego Registrar of Voters, et al	
<b>PROOF OF ELECTRONIC SERVICE</b>	

1. I am at least 18 years old.

a. My residence or business address is (specify): 817 W. San Marcos Blvd, San Marcos, CA 92078

b. My electronic service address is (specify): alan@carelaw.net

2. I electronically served the following documents (exact titles): Ex Parte Declaration of Alan L. Geraci

The documents served are listed in an attachment (Form POS-050(D)/EFS-050(D) may be used for this purpose.)

3. I electronically served the documents listed in 2 as follows:

a. Name of person served: Timothy Barry, Chief Deputy County Counsel

On behalf of (name or names of parties represented, if person served is an attorney): Michael Vu, San Diego County Registrar of Voters; Helen N. Robbins-Meyer, San Diego County Chief Administrative Officer; County of San Diego, a public entity

b. Electronic service address of person served: Timothy.Barry@sdcounty.ca.gov

c. On (date): 8/10/2016

d. At (time): 12:00 p.m.

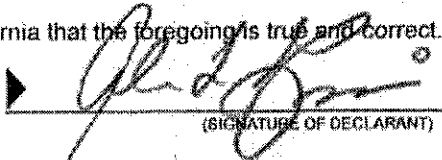
The documents listed in item 2 were served electronically on the persons and in the manner described in an attachment. (Form POS-050(P)/EFS-050(P) may be used for this purpose.)

Date: 8/10/2016

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

Alan L. Geraci

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
CENTRAL

0274

MINUTE ORDER

DATE: 08/11/2016 TIME: 08:30:00 AM DEPT: C-73

JUDICIAL OFFICER PRESIDING: Joel R. Wohlfeil  
CLERK: Juanita Cerda  
REPORTER/ERM: Not Reported  
BAILIFF/COURT ATTENDANT: R. Camberos

CASE NO: 37-2016-00020273-CL-MC-CTL CASE INIT.DATE: 06/16/2016  
CASE TITLE: Lutz vs Michael Vu [IMAGED]  
CASE CATEGORY: Civil - Limited CASE TYPE: Misc Complaints - Other

EVENT TYPE: Ex Parte

**APPEARANCES**

Alan L Geraci, counsel, present for Plaintiff(s).  
Timothy Barry, counsel, present for Defendant(s)

**Ex Parte Request For Expedited Trial Setting**

The Court informs counsel it has received and approved the stipulation for leave to file second amended complaint and directs counsel to separately file the 2nd Amended Complaint.

The Court provides counsel with trial and related dates. Counsel are directed to file stipulation as to the briefing schedule directly with the department.

The Trial Readiness Conference (Civil) is scheduled for 09/23/2016 at 10:45AM before Judge Joel R. Wohlfeil.

The Civil Court Trial is scheduled for 10/03/2016 at 09:00AM before Judge Joel R. Wohlfeil.

Estimated length of trial: 3 days

Parties waive notice.

*Joel R. Wohlfeil*

\_\_\_\_\_  
Judge Joel R. Wohlfeil