

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

SEP 21 2022

DAVID H. YAMASAKI, Clerk of the Court

BY: _____ DEPUTY

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

PEOPLE OF THE STATE OF CALIFORNIA ex rel. Schlesinger,

Relator/Petitioner,

v.

ED SACHS, GREG RATHS, and WENDY BUCKNUM,

Defendants/Respondents,

CITY OF MISSION VIEJO

Defendant/Intervenor.

Case No. 30-2022-01262431-CU-JR-CJC

Assigned for all Purposes to
Hon. Walter Schwarm, Dept. C32

[PROPOSED] JUDGMENT

W.S. 9-21-22

IT IS HEREBY ORDERED ADJUDGED AND DECREED THAT:

Defendant Ed Sachs is guilty of usurping or intruding into, or unlawfully holding the office of member of the City Council of Mission Viejo and is excluded and removed from his respective office as City Council member of the City of Mission Viejo as of 5:00 P.M. on August 31, 2022, pursuant to Code of Civil Procedure section 809;

Defendant Greg Raths is guilty of usurping or intruding into, or unlawfully holding the office of member of the City Council of Mission Viejo and is excluded and removed from his respective office as City Council member of the City of Mission Viejo as of 5:00 P.M. on August 31, 2022, pursuant to Code of Civil Procedure section 809;

1 Defendant Wendy Bucknum is guilty of usurping or intruding into, or unlawfully holding
2 the office of member of the City Council of Mission Viejo and is excluded and removed from her
3 respective office as City Council member of the City of Mission Viejo as of 5:00 P.M. on
4 August 31, 2022, pursuant to Code of Civil Procedure section 809;

5 In lieu of filing a memorandum of costs pursuant to Code of Civil Procedure Section 1032
6 and California Rules of Court, rule 3.1700(a), Plaintiff or Relator may bring a separate motion for
7 costs and attorneys' fees (including, without limitation, pursuant to Code of Civil Procedure
8 section 809) within 90 days following entry of judgment.

9 The Court's Minute Order of August 31, 2022, ordering the removal of Defendants Ed
10 Sachs, Greg Baths, and Wendy Bucknum, and issuing a temporary stay of that order, is attached
11 for reference only as Exhibit "A." On September 20, 2022, the Court issued an order modifying
12 the stay contained in its August 31, 2022 minute order, to state: "The Court stays the
13 implementation of the Court's August 31, 2022 order for 30 days, from August 31, 2022, to allow
14 the parties to seek writ and/or appellate relief. Unless the California Court of Appeal issues a stay
15 of the Court's order, the Court's August 31, 2022 order removing Defendants from office will go
16 into effect 30 days from August 31, 2022." A copy of the Court's September 20, 2022, minute
17 order is attached for reference only as Exhibit "B."

18
19 Dated: September 21, 2022

20
21
22 By: 

JUDGE OF THE SUPERIOR COURT

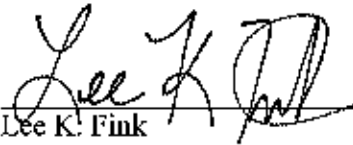
JUDGE WALTER P. SCHWARM

1 **APPROVED AS TO FORM ONLY:**

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Dated: September 20, 2022

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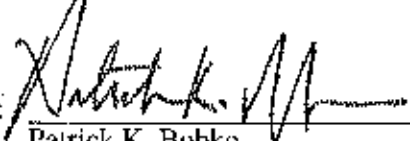
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1 Dated: September 20, 2022

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20 *Intervention*

EXHIBIT A

EXHIBIT A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

Central Justice Center
700 W. Civic Center Drive
Santa Ana, CA 92702

SHORT TITLE: People of the State of California vs. Sachs

**CLERK'S CERTIFICATE OF MAILING/ELECTRONIC
SERVICE**

**CASE NUMBER:
30-2022-01262431-CU-JR-CJC**

I certify that I am not a party to this cause. I certify that the following document(s), Minute Order dated 08/31/22, have been transmitted electronically by Orange County Superior Court at Santa Ana, CA. The transmission originated from Orange County Superior Court email address on September 1, 2022, at 8:01:01 AM PDT. The electronically transmitted document(s) is in accordance with rule 2.251 of the California Rules of Court, addressed as shown above. The list of electronically served recipients are listed below:

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Clerk of the Court, by:



, Deputy

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

The court **GRANTS** Plaintiff's Supplemental Request for Judicial Notice (PSRJN2), filed on 8-24-22 under ROA No. 127, as to Exhibit X pursuant to Evidence Code section 452, subdivision (d). The court **GRANTS** the PSRJN2 as to Exhibit Y pursuant to Evidence Code section 452, subdivision (c). The court **DENIES** the PSRJN2 as to Exhibit Q, R, S, T, U, V, and W because they are not subject to judicial notice under Evidence Code section 452.

Code of Civil Procedure section 803 provides, "An action may be brought by the attorney-general, in the name of the people of this state, upon his own information, or upon a complaint of a private party, against any person who usurps, intrudes into, or unlawfully holds or exercises any public office, civil or military, or any franchise, or against any corporation, either de jure or de facto, which usurps, intrudes into, or unlawfully holds or exercises any franchise, within this state. And the attorney-general must bring the action, whenever he has reason to believe that any such office or franchise has been usurped, intruded into, or unlawfully held or exercised by any person, or when he is directed to do so by the governor."

Plaintiff's Verified Complaint in Quo Warranto (Complaint), filed on 5-26-22 under ROA No. 2, seeks a quo warranto declaration as to Defendants (Ed Sachs, Wendy Bucknum, and Greg Rath). The Complaint alleges that each Defendant continues to hold office as members of the Mission Viejo City Council despite their terms of office having expired on or about December 11, 2020. (Complaint, ¶¶ 28-43.) The Complaint seeks the following relief: "1. Judgment that Defendant Sachs is guilty of usurping or intruding into, or unlawfully holding the office of member of the City Council of Mission Viejo and that Defendant Sachs shall be excluded from the office, franchise, or privilege; [¶] 2. Judgment that Defendant Sachs pay the costs of the action pursuant to Section 809 of the Code of Civil Procedure; [¶] 3. Judgment that Defendant Bucknum is guilty of usurping or intruding into, or unlawfully holding the office of member of the City Council of Mission Viejo and that Defendant Bucknum shall be excluded from the office, franchise, or privilege; [¶] 4. Judgment that Defendant Bucknum pay the costs of the action pursuant to Section 809 of the Code of Civil Procedure; [¶] 5. Judgment that Defendant Rath is guilty of usurping or intruding into, or unlawfully holding the office of member of the City Council of Mission Viejo and that Defendant Rath shall be excluded from the office, franchise, or privilege; [¶] 6. Judgment that Defendant Rath pay the costs of the action pursuant to Section 809 of the Code of Civil Procedure; [¶] 7. That Relator be awarded costs and attorneys' fees pursuant to Section 1021.5 of the Code of Civil Procedure; [¶] 8. That the Court enter any other relief that it deems just." (Complaint; 8:14-9:5.)

Factual Background:

On 6-26-18, the City Council of the City of Mission Viejo (City) adopted Resolution 18-21 stating in part, "SECTION 1. That pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the City of Mission Viejo, California, on Tuesday November 6, 2018, a General Municipal Election for the purpose of electing Three (3) Members of the City Council for the full term of four years; . . ." (RRJN, Exhibit J.)

On 7-16-18, in Orange County Superior Court (OCSC) Case No. 30-2018-00981588), the court entered a Stipulated Judgment between Southwest Voter Registration Education Project (SVREP) and the City (SVREP Case). (PRJN, Exhibit A.) The Recitals in the Stipulated Judgment state in part, "3. On or about September 26, 2017, counsel for Plaintiff sent correspondence to the City alleging that the City's current at-large election system for electing its council members violates the California Voting Rights Act of 2001. . . Cal. Elec. Code 14025, et seq. [¶] 4. On or about March 22, 2018, Plaintiff filed the above captioned lawsuit alleging that City's election system violates the CVRA. Thereafter, the City confirmed such violation is present and sought to identify remedies that best correct the violation. Plaintiff and City worked together to identify appropriate remedies, which are identified in this pleading. . . ." (PRJN, Exhibit A; 2:12-20.) The Stipulated Judgment states in part, "4. In order to maximize the remedial effectiveness of the cumulative voting system adopted herein, and consistent with the cumulative voting remedy ordered by the court in United State v. Village of Port Chester (S.D.N.Y. 2010) 704 F.Supp.2d

411, beginning with the November 2020 election, all five seats on the City Council shall be elected at the same time. Accordingly, the election in November 2018 shall be for two-year terms on the City Council, with all subsequent elections (2020, 2024, 2028, etc.) being for four-year terms. City shall, at an appropriate time, amend its codes to reflect this revision." (PRJN, Exhibit A.)

On 7-30-2018, the City issued a Public Notice of Election, stating in part, "NOTICE IS HEREBY GIVEN that a General Municipal Election is to be held in the City of Mission Viejo on Tuesday, November 6, 2018 for the following officers: [¶] Three Members of the City Council . . . Full term of two years" (PRJN, Exhibit C.)

On 12-11-18, the City Council of the City adopted Resolution 18-52, which stated in part: "SECTION 4. The City Council does declare and determine that: Ed Sachs was elected as Member of the City Council for the term of two years; Wendy Bucknum was elected as Member of the City Council for the term of two years; and Greg Rath was elected as Member of the City Council for the term of two years." (PRJN, Exhibit E.)

On 7-16-20, the court entered an Order Granting Joint Ex Parte Application For Order Amending Stipulated Judgment (Amended Stipulated Judgment) that states in part, "The Stipulated Judgment is hereby amended as follows: [¶] 1) The implementation of cumulative voting in Defendant's City Council elections will begin with the November 2022 election, rather than the November 2020 election; [¶] 2) All five seats on Defendant's City Council to be up for election in November 2022 and every four years thereafter, rather than November 2020 and every four years thereafter; [¶] 3) The City shall implement limited voting (each voter gets one vote), or district-based voting, in each election in the event that cumulative voting cannot be implemented in that election; [¶] and 4) No further postponements of the implementation of the remedial changes to Defendant's City Council election system will be granted for any reason. [¶] In all other respects, the Stipulated Judgment remains the same." (PRJN, Exhibit G.)

It is undisputed that the City has not held an election for Defendants' three City Council seats since the November 2018 election. (PRJN, Exhibit F.)

Merits:

"Any ambiguity in a statute relating to elections must be weighed in favor of the public's right to vote. ' Every reasonable presumption and interpretation is to be indulged in favor of the right of the people to exercise their elective process.' [Citation.] " (Robson v. Upper San Gabriel Valley Municipal Water Dist. (2006) 142 Cal.App.4th 877, 885 (Robson).)

Government Code section 36503 states, "Unless otherwise required by Section 57379, a general municipal election shall be held on a date prescribed by Section 1301 of the Elections Code. Except as otherwise provided in this title, all elective city offices shall be filled by the city electorate at a general municipal election. City officers holding elective city office shall hold office for their prescribed terms from the date of the installation of officers following adoption by the council of the official canvass of their election and until their successors are elected and qualified." Government Code section 14 states, " 'Shall' is mandatory and 'may' is permissive." Elections Code section 354 states, " 'Shall' is mandatory and 'may' is permissive."

Government Code section 36503 does not reflect a legislative intent to extend the prescribed terms of elected City officers except in circumstances where a successor has not been elected and qualified.

Here, the Public Notice of Election (PRJN, Exhibit C) clearly explained to the voters in the City that the term of office for the November 2018 City Council election in which Defendants were elected was two years for each Defendant. Responding Parties' Trial Brief (Trial Brief), filed on 8-19-22 under ROA No. 115, contends, "The Stipulated Judgment and the amendment contain no revision to the terms of the

office or the number of seats up for election in the event City used district-based elections. The requirement of two-year terms was only applicable in the event cumulative voting was used." (Trial Brief; 9:14-16.) Specifically, Responding Parties assert, "This Court's Stipulated Judgment provides that a two-year term would apply if the City adopted cumulative voting, which the City did not." (Trial Brief; 4:3-4.) The Responding Parties further contend, "The resolutions and public notifications calling for elections for two-year terms do not supersede either Government Code Section 57377 or Mission Viejo Municipal Code 2.04.140 which both legally set the terms at four years." (Trial Brief; 12:7-9.) The Trial Brief acknowledges that ". . . City agreed that its voting system inadvertently diluted the vote of a minority population and, therefore, worked cooperatively with SVREP to find an effective remedy." (Trial Brief; 4:21-22.) Responding Parties position is that a term of four-years applied to Defendants' City Council seats if the City was not able to implement cumulative voting.

The issue is whether the court's Stipulated Judgment, as amended, in the SVREP case extended the terms of the City Council seats occupied by Defendants from two-years to four-years. In order to resolve this issue, the court must interpret the Stipulated Judgment, as amended, in the SVREP Case.

Machado v. Myers (2019) 39 Cal.App.5th 779, 792 (Machado), states, "Under section 664.6, the Machados were entitled to judgment 'pursuant to the terms of the settlement' (§ 664.6), and nothing more. 'The power of the trial court under Code of Civil Procedure section 664.6 . . . is extremely limited.' [Citation.] '[T]he trial court is under a duty to render a judgment that is in exact conformity with an agreement or stipulation of the parties. "If interpretation of a stipulation is in order the rules applied are those applied to the interpretation of contracts. [Citations.] It is not the province of the court to add to the provisions thereof [citations]; to insert a term not found therein [citations]; or to make a new stipulation for the parties.'" [Citations.]"

Defendants' contention is contradicted by the language of the Stipulated Judgment (PRJN, Exhibit A), the Amended Stipulated Judgment (PRJN, Exhibit G), the Notice of Election (PRJN, Exhibit C), and Resolution 18-52 (PRJN, Exhibit E) which state the 2018 election for Defendants' City Council seats would be for a two-year term. The provision for two-year terms of office in the Stipulated Judgment did not contradict Government Code section 57377 and Mission Viejo Municipal Code section 2.04.140 because the court had authority under Elections Code section 14029 to "implement appropriate remedies," such as the two-year terms of office, that were "tailored to remedy the violation" alleged in the SVREP case.

Elections Code section 14029 states, "Upon a finding of a violation of Section 14027 and Section 14028, the court shall implement appropriate remedies, including the imposition of district-based elections, that are tailored to remedy the violation."

Government Code section 57377 provides, "Officers, except members of the city council, shall hold office until the first succeeding general municipal election held in the city and until their successors are elected and qualified. Of the five elected members of the city council, the two receiving the lowest number of votes shall hold office until the first succeeding general municipal election held in the city and until their successors are elected and qualified, and the three receiving the highest number of votes shall hold office until the second succeeding general municipal election held in the city and until their successors are elected and qualified. If two or more members of the city council are elected by the same number of votes, the terms of each shall be determined by lot. The members of the city council elected to succeed the members elected at the incorporation election shall hold office for four years from the Tuesday succeeding their election, and until their successors are elected and qualified."

Mission Viejo Municipal Code section 2.04.140 states, "City council members shall hold office for four years from the Monday succeeding the county clerk's certification of the election and until their successors are elected and qualified."

Here, by approving the Stipulated Judgment (PRJN, Exhibit A) and the Amended Stipulated Judgment (PRJN, Exhibit G) in the SVREP case in the form proposed by the parties, this court did not approve extension of Defendants' prescribed two-year terms. The Stipulated Judgment (PRJN, Exhibit A) and the Amended Stipulated Judgment (PRJN, Exhibit G) do not expressly state Defendants' terms would be extended beyond the prescribed two-year terms for which they were elected. Through the Stipulated Judgment (PRJN, Exhibit A) and the Amended Stipulated Judgment (PRJN, Exhibit G), SVREP and the City gave the court the authority under Elections Code section 14029 to implement remedies to address the CVRA violation. (See also, Elec. Code, §§ 14027 and 14028.)

As to the Amended Stipulated Judgment (PRJN, Exhibit G), the declaration of City Attorney William P. Curley, III in Support of Joint Ex Parte Application for Order Amending Stipulated Judgment, filed in OCSC Case No. 30-2018-00981588 on 7-15-20 under ROA No. 40, states in part, "7. Following entry of that judgment, the City, in regular discussion with Plaintiff's counsel, commenced an effort to implement cumulative voting information reality for City voters. Among other things, the City reached out to the California Secretary of State, a non-profit organization (FairVote) experienced with cumulative voting and voter education regarding that system, and the Village of Port Chester, New York, which had successfully implemented cumulative voting for the election of its governing board. While the Village of Port Chester and FairVote responded without limitation and provided helpful information, the Secretary of State has been less cooperative. Ostensibly because of the instruction of the Secretary of State, the Registrar of Voters for the County of Orange advised the City that it would not assist the City in implementing cumulative voting in local elections until the Secretary of State instructed it to do so. [¶] 8. The City, finding itself and its Stipulated Judgment impeded, has been in ongoing communication with the Secretary of State, as well as his legal staff regarding this matter. This process is more complicated, and is taking longer, than either party to the Stipulated Judgment anticipated. Still, the City is committed to implementing the carefully tailored remedy of cumulative voting and continues to pursue implementation of cumulative voting with the Secretary of State and Orange County Registrar of Voters. However, despite the parties' best efforts, that process will not be complete in time to implement cumulative voting for the November 2020 election." (Curley Decl., [¶] 7 and 8.)

Mr. Curley's declaration did not state that Defendants' two-year terms would be extended if the Amended Stipulated Judgment was entered. Rather, the ex parte application and the Amended Stipulated Judgment reflected the intent of the parties to give the City more time to attempt to implement cumulative voting as a remedy for ". . . inadvertently dilut[ing] the vote of a minority population." (Trial Brief; 4:21-22.) 4:21-22.)

The court recognizes that Resolution 18-21 (RRJN, Exhibit J) authorized four-year terms for the election of Members of the City Council in 2018. The City, however, adopted Resolution 18-21 on 6-26-18 before the Stipulated Judgment (PRJN, Exhibit A), the Amended Stipulated Judgment (PRJN, Exhibit G), the Notice of Election (PRJN, Exhibit C), and Resolution 18-52 (PRJN, Exhibit E). The Stipulated Judgment (PRJN, Exhibit A), the Amended Stipulated Judgment (PRJN, Exhibit G), the Notice of Election (PRJN, Exhibit C), and Resolution 18-52 (PRJN, Exhibit E) demonstrated the City's recognition that the seats at issue in the Complaint were for terms of two-years. Further, the Stipulated Judgment (PRJN, Exhibit A), the Amended Stipulated Judgment (PRJN, Exhibit G), the Notice of Election (PRJN, Exhibit C), and Resolution 18-52 (PRJN, Exhibit E) show the City recognized the court's authority under Elections Code section 14029 to remedy the California Voting Rights Act (CVRA) violation based on the City's agreement ". . . that its voting system inadvertently diluted the vote of a minority population . . ." (Trial Brief; 4:21-22.)

Further, the Amended Stipulated Judgment provided an option for the City to implement limited voting or district-based voting in the event that it could not implement cumulative voting. The Amended Stipulated Judgment (PRJN, Exhibit G) states in part, ". . . 2) All five seats on Defendant's City Council to be up for election in November 2022 and every four years thereafter, rather than November 2020 and every four years thereafter; [¶] 3) The City shall implement limited voting (each voter gets one vote), or

district-based voting, in each election in the event that cumulative voting cannot be implemented in that election”

The Stipulated Judgment (PRJN, Exhibit A) and Amended Stipulated Judgment (PRJN, Exhibit G) did not preclude the City of Mission Viejo from holding elections for Defendants’ City Council seats in the November 2020 general election under a limited voting or district-based voting system. The Amended Stipulated Judgment (PRJN, Exhibit G) indicated that all five City Council seats would be up for election in 2022 instead of 2022. The Amended Stipulated Judgment (PRJN, Exhibit G) did not expressly extend the terms for the seats at issue from two-years to four-years. The Stipulated Judgment (PRJN, Exhibit A) did not expressly condition the two-year terms on the City’s adoption of cumulative voting.

Even assuming that the Stipulated Judgment and the Amended Stipulated Judgment could be interpreted to extend Defendants’ prescribed two-year terms to four years, Defendants have not shown that such an extension would be legal. *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1129 (*Timney*) states, “Moreover, our Supreme Court and other California courts have rejected the notion that a settlement judge may properly act to ‘approve’ an illegal contract and thereby shield it from invalidation. [Citation.] We have found no case, and the parties have cited none, holding an illegal forfeiture provision may be enforced by the courts, even as part of a settlement agreement.” The Stipulated Judgment and the Amended Stipulated Judgment were not illegal under *Timney* because their purpose was to address the CVRA violation.

Under *Robson*, the court must construe the Stipulated Judgment (PRJN, Exhibit A) and the Amended Stipulation Judgment (PRJN, Exhibit G) by giving every reasonable interpretation and presumption in favor of the right of the people to their elective process. Following *Robson*, the court finds that the purpose of the Stipulated Judgment (PRJN, Exhibit A) and the Amended Stipulated Judgment (PRJN, Exhibit G) was to address the CVRA violation in OCSC Case No. 30-2018-00981588. The Recitals in the Stipulated Judgment (PRJN, Exhibit A) and the Trial Brief (Trial Brief; 4:16-5:6) acknowledge that the purpose of the Stipulated Judgment (PRJN, Exhibit A) and the Amended Stipulated Judgment (PRJN, Exhibit G) was to address the CVRA violation identified in the Stipulated Judgment (PRJN, Exhibit A). The Stipulated Judgment (PRJN, Exhibit A) and Amended Stipulated Judgment (PRJN, Exhibit G) were not intended to extend the terms of Defendants’ City Council seats especially in light of the information provided to the voters in the City by way of the Notice of Election (PRJN, Exhibit C) and Resolution 18-52 (PRJN, Exhibit E).

Here, the court finds that the prescribed terms for Defendants’ City Council seats were for two years based on the Stipulated Judgment (PRJN, Exhibit A), Notice of Election (PRJN, Exhibit C), Resolution 18-52 (PRJN, Exhibit E), and the Amended Stipulated Judgment (PRJN, Exhibit G). The Stipulated Judgment (PRJN, Exhibit A) and Amended Stipulated Judgment (PRJN, Exhibit G) did not extend those terms because their purpose was to address the CVRA violation in OCSC Case No. 30-2018-00981588. Under Government Code section 36503, Defendants’ terms of office expired on or about December 11, 2020. Therefore, the court finds that Defendant—Ed Sachs, Defendant—Wendy Bucknam, and Defendant Greg Rath are not lawfully holding their offices.

Code of Civil Procedure section 809 provides, “When a defendant, against whom such action has been brought, is adjudged guilty of usurping or intruding into, or unlawfully holding any office, franchise, or privilege, judgment must be rendered that such defendant be excluded from the office, franchise, or privilege, and that he pay the costs of the action. The Court may also, in its discretion, impose upon the defendant a fine not exceeding five thousand dollars, which fine, when collected, must be paid into the Treasury of the State.”

The Court orders Defendants Ed Sachs, Wendy Bucknum, and Greg Rath excluded and removed from their respective elected offices as City Council members of the City of Mission Viejo as of 5:00 p.m. on August 31, 2022.

Plaintiff's Reply in Support of Quo Warranto and Related Relief (Reply), filed on 8-25-22 under ROA No. 129, requests relief in terms of striking or amending Defendants' ballot designations. (Reply; 20:5-21:2.) Elections Code sections 13107 and 13314 provide for an action for writ of mandate to correct an error or omission in a ballot or voter information guide. Elections Code sections 13307 and 13313 provide for a petition for writ of mandate to amend or delete information in a candidate statement. The election official must be a party to an action under Elections Code section 13313. The Complaint does not seek relief under Elections Code sections 13313 or 13314, and the Complaint does not name the elections official as a respondent. (Elections Code, § 13313 subd. (b)(3).) Therefore, the Court declines to award relief as to the ballot designations and candidate statements.

Plaintiff may bring a separate motion to recover statutory attorney fees and/or costs.

Based on the above, the court **ENTERS JUDGMENT** on the Complaint in favor of Plaintiff, and against Defendants, by removing Defendant—Ed Sachs, Defendant—Wendy Bucknam, and Defendant Greg Rath from holding their current office as members of the City Council. This judgment does not prevent Defendant—Ed Sachs, Defendant—Wendy Bucknam, and Defendant Greg Rath from seeking election as members of the City Council at the November 2022 election.

The court stays the implementation of this order for 30 days for the parties to pursue writ relief with the Court of Appeal, or until the Court of Appeal has determined any application for writ relief.

Plaintiff is to give notice. **(End of Ruling)**

The court orders the following:

The Status Conference re: Judgment is scheduled for 09/26/2022 at 08:30 AM in Department C32.

Parties waive notice.

Court orders clerk to give notice of this minute order.

EXHIBIT B

EXHIBIT B

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER**

MINUTE ORDER

DATE: 09/20/2022

TIME: 08:30:00 AM

DEPT: C32

JUDICIAL OFFICER PRESIDING: Walter Schwarm

CLERK: S. Turner

REPORTER/ERM: Donna E. Boulger CSR# 6162

BAILIFF/COURT ATTENDANT: S. Gorman

CASE NO: 30-2022-01262431-CU-JR-CJC CASE INIT.DATE: 05/26/2022

CASE TITLE: **People of the State of California vs. Sachs**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Judicial Review - Other

EVENT ID/DOCUMENT ID: 73849562

EVENT TYPE: Ex Parte

MOVING PARTY: City of Mission Viejo

CAUSAL DOCUMENT/DATE FILED: Ex Parte Application - Other, 09/19/2022

APPEARANCES

Lee K. Fink, from Brower Law Group, APC, present for Plaintiff(s).

Aaron R. Hand, from Bunsow De Mory LLP, present for Plaintiff(s) remotely.

Michael Schlesinger, Plaintiff, present remotely.

William P. Curley, from Harper & Burns LLP, present for Defendant, Interested Party, Intervenor(s) remotely.

Norman A. Dupont, from Ring Bender LLP, present in person for Defendant(s).

Ex-Parte Application for: (1) Shortening Time on Sua Sponte Judicial Review of Prior Stay Order and (2) Order Directing Court Clerk to Enter Judgment Forthwith is requested by Respondent(s)/Defendant(s).

The Court having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

The Ex-Parte Application is **GRANTED** to the extent the Ex-Parte seeks clarification.

THE COURT MODIFIES THE 08/31/2022 MINUTE ORDER TO CLARIFY AS FOLLOWS:

The Court stays the implementation of the Court's 08/31/2022 Order for 30 days from 08/31/2022 to allow the parties to seek writ and/or appellate relief from the California Court of Appeal.

Unless the California Court of Appeal issues a stay of the Court's 08/31/2022 order, the Court's order will go into effect 30 days from 08/31/2022.

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF ORANGE**

3 I am employed in the County of Orange, State of California. I am over the age of 18 and
4 not a party to the within action. My business address is 23601 Moulton Parkway, Suite 220
5 Laguna Hills, CA 92653.

6 On September 20, 2022, I served the foregoing [Proposed] Judgment on all interested
7 parties in this action by sending a true copy thereof as stated to:

8 Counsel for Defendants and Defendant/Intervenor City of Mission Viejo

9 William P. Curley (wcurley@harperburns.com);
10 Alexandra M. Halfman (amhalfman@harperburns.com);
11 Colin R. Burns (crburns@harperburns.com);
12 Patrick "Kit" Bobko (pbobko@ringbenderlaw.com);
13 Norman Dupont (ndupont@ringbenderlaw.com);
14 Jay Tufano (jtufano@ringbenderlaw.com);

15 BY MAIL - I deposited such envelope in the mail at _____, California. The
16 envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's
17 practice of collection and processing correspondence for mailing. Under that practice it would be
18 deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at
19 _____, California in the ordinary course of business. I am aware that on motion of the party
20 served, service is presumed invalid if postal cancellation date or postage meter date is more than
21 one (1) day after date of deposit for mailing in affidavit.

22 BY PERSONAL SERVICE - I caused such envelope to be delivered by a process
23 server employed by _____.

24 VIA FACSIMILE- I faxed said document, to the office(s) of the addressee(s) shown
25 above, and the transmission was reported as complete and without error.

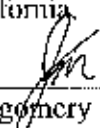
26 BY ELECTRONIC TRANSMISSION - I transmitted a PDF version of this
27 document by electronic mail to the party(s) identified above using the e-mail addresses indicated.

28 BY OVERNIGHT DELIVERY - I deposited such envelope for collection and delivery
by Type Name of Overnight Delivery service, i.e. Federal Express with delivery fees paid or
provided for in accordance with ordinary business practices. I am "readily familiar" with the
firm's practice of collection and processing packages for overnight delivery by Type Name of
Overnight Delivery service, i.e. Federal Express. They are deposited with a facility regularly
maintained by Type Name of Overnight Delivery service, i.e. Federal Express for receipt on the
same day in the ordinary course of business.

(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.

Executed on September 20, 2022, at Laguna Hills, California.


Joshua Montgomery