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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF ORANGE

12 **Assigned for All Purposes**
13 Judge Richard Lee

14 **Richard Reddish,**

15 Petitioner,

16 vs.

17 **Theresa Bass**, in her official capacity as
18 Anaheim City Clerk;

19 **Bob Page**, in his official capacity as Orange
20 County Registrar of Voters; and
21 DOES 1 through 10, inclusive,

22 Respondents;

23 **Hari Lal,**

24 Real Party in Interest.

Case No.: 30-2022-01277366-CU-WM-CJC

IMMEDIATE ACTION REQUESTED
ELECTION LAW MATTER:
Priority Over All Civil Matters
CCP § 35; Elec. Code § 13314(a)(3)

Ruling Requested by Sep. 2, 2022

Verified Petition for Writ of Mandate
[Elec. Code § 13314]

25 **TO THE HONORABLE JUDGES OF THE SUPERIOR COURT:**

26 Petitioner HARRY REDDISH, by this Verified Petition, petitions this Court for a Writ of
27 Mandate and by this Petition alleges:

- 28 1. This action concerns the candidacy of Hari Lal who is purportedly a candidate for both

1 Anaheim City Council and the Santiago Geologic Hazard Abatement District. Lal cannot lawfully
2 be a candidate for both offices. On this basis, Petitioner seeks an order removing the name of Hari
3 Lal from the ballot for Anaheim City Council, District 6.

4 **PARTIES**

5 2. Petitioner **RICHARD REDDISH** is an elector, as that term is defined in section 321 of
6 the Elections Code, in Anaheim City Council District 6.

7 3. Respondent **THERESA BASS** (“CITY CLERK”) is the City Clerk for the City of
8 Anaheim, a charter City located wholly within the County of Orange, State of California. In this
9 role, Bass is the City’s elections official. As such, she is charged by law with administering
10 elections in the City of Anaheim. Petitioner is informed and believes that Bass, by contract with
11 the County Registrar of Voters, delegates most of these duties to the County Registrar.
12 Nonetheless, as the City’s election’s official, she retains ultimate authority for the City’s
13 election. The City Clerk is sued in her official capacity.

14 4. Respondent **BOB PAGE** (“REGISTRARS OF VOTERS” or “REGISTRAR”) is the
15 Registrar of Voters for the County of Orange. In this role, he is the county’s elections official. As
16 such, she is charged by law with administering elections in Orange County and is responsible for
17 the printing of ballots, ballot pamphlets, sample ballots, and other election materials in the
18 County. Petitioner is informed and believes that the Registrar, by contract with the City Clerk,
19 conducts elections and election-related services on behalf of the City of Anaheim. Additionally,
20 because the Santiago Geologic Hazard Abatement District is a special district, the Registrar is the
21 elections official for this office. The Registrar is named in her official capacity.

22 5. The true names of Respondent DOES 1 through 10, inclusive, are unknown to Petitioner,
23 who therefore brings this action against DOES 1 through 10, inclusive, by such fictitious names
24 and will seek leave of this Petition to show their true names, identities, and capacities when they
25 have been ascertained.

26 6. Real Party in Interest **HARI LAL** is a purported candidate Anaheim City Council,
27 District 6, and the Santiago Geologic Hazard Abatement District. He is interested in this action
28

1 because this action concerns his candidacy for Anaheim City Council and seeks to remove him
2 from the ballot.

3 **JURISDICTION AND VENUE**

4 7. Venue is appropriate in this Orange County Court because the actions complained of
5 have taken place or will take place in the County of Orange.

6 8. Respondents include a government official for the County of Orange and a government
7 official for a city located wholly within Orange County's boundaries who were sued in their
8 official capacity.

9 9. The Real Party in Interest is a resident of Orange County.

10 10. This petition concerns an election for government office that will exist within Orange
11 County's boundaries.

12 **CAUSE OF ACTION**

13 11. Under Elections Code section 13314, "[a]n elector may seek a writ of mandate alleging
14 that an error or omission has occurred, or is about to occur, in the placing of a name on, or in the
15 printing of, a ballot, county voter information guide, state voter information guide, or other
16 official matter, or that any neglect of duty has occurred, or is about to occur."

17 12. Petitioner is an elector in Anaheim City Council District 6.

18 13. On or about August 5, 2022, the Anaheim City Clerk qualified Hari Lal as a candidate for
19 Anaheim City Council, District 6. Lal is one of two candidates for this office, which will be on the
20 November 8, 2022 ballot.

21 14. On or about August 12, 2022, the Registrar of Voters qualified Hari Lal as a candidate for
22 Director of the Santiago Geologic Hazard Abatement District (Santiago GHAD). Petitioner is
23 informed and believes that three seats on the Santiago GHAD were up for election and that Lal is
24 one of three candidates who filed for this office. On this basis, Petitioner is informed and believes
25 that the campaign for Santiago GHAD will not appear on the ballot. Lal has "won" election to
26 that district by virtue that not enough candidates ran for the office to contest the election.
27
28

1 15. While Lal may not lawfully be a candidate for both offices, Petitioner does not presently
2 have a basis to believe that the Registrar knew Lal had already been qualified as a candidate for
3 Anaheim City Council when he qualified him as a candidate for the hazard abatement district.

4 16. Nonetheless, neither California's Elections Code nor its common law allow Lal to remain
5 as a candidate for both offices, especially in light of his "election" to the Santiago GHAD.

6 17. This is rooted in the common law doctrine prohibiting public officials from holding
7 incompatible offices, now codified under section 1099 of the Government Code. Under this
8 doctrine, offices are incompatible if, *inter alia*, "Based on the powers and jurisdiction of the
9 offices, there is a possibility of a significant clash of duties or loyalties between the offices." (Gov.
10 Code § 1099(a)(2).) This conflict presently exists because the Santiago Geologic Hazard
11 Abatement District is currently engaged in litigation with the City of Anaheim.

12 18. The Supreme Court decision in *Keane v. Smith* (1971) 4 Cal.3d 932 and an opinion of the
13 California Attorney General, 92 Ops.Cal.Atty.Gen 41 (2009), support a conclusion that Hal may
14 not lawfully run for both offices at the same time.

15 19. Furthermore, to become a candidate for each of the two offices, Hal was required to
16 declare under penalty of perjury that he would accept the nomination in the event of his election.
17 (Elec. Code §§ 10226 [requirement for city candidates], 15011 [requirement for special districts],
18 8040 [general form].) If Hal is elected to both offices, he cannot possibly fulfill this oath.

19 20. Based on *Keane, supra*, 4 Cal.3d at p. 942, votes cast for in Hal's favor for either office
20 may not be counted. For this reason, he should be removed from the ballot for both offices.

21 21. In the interest of equity, Petitioner looks to section 1099 of the Government Code to
22 guide the common law rule that applies here. Under section 1099, office holders who possess
23 incompatible offices are deemed to have forfeited the first upon ascension to the second. (Gov.
24 Code § 1099(b).)

25 22. Under Elections Code section 10224, Hal was permitted to withdraw his nomination
26 papers for Anaheim City Council until 5:00 p.m. on August 12, 2022. As such, the Court may
27 conclude that Hal's August 12, 2022 submission of nomination papers for Santiago Geologic
28 Hazard Abatement District as a withdrawal of his nomination for Anaheim City Council. This

1 reconciles the related common law rules and balances them against Hal’s right to run for public
2 office.

3 23. Without intervention from this Court prior to 5:00 p.m. on September 2, 2022, this is an
4 error that is about to occur in the placing of Hal’s name on the ballot for Anaheim City Council as
5 well as in the printing of the ballots, county voter information guides, and other official election
6 matters for that office. Even if the error is not the result of any Respondent’s neglect, it is an
7 error that warrants relief from this court because Petitioner is not required to show a
8 Respondent’s negligence.

9 24. Under section 13314 of the Elections Code, subdivision (a)(2), “[a] peremptory writ of
10 mandate shall issue only upon proof of both of the following: [¶] (A) That the error, omission, or
11 neglect is in violation of this code or the Constitution” and “(B) That issuance of the writ will
12 not substantially interfere with the conduct of the election.”

13 25. The error, as set forth above, violates both the Elections Code and constitutional
14 authorities supporting the common law rules described above. Additionally, the unlawful
15 inclusion of a candidate on the ballot violates constitutional rights held by opposing candidates to
16 campaign against candidates who are entitled to contest an election. There is a related
17 constitutional right held by voters in Anaheim’s 6th Council District to not risk dilution of their
18 vote by the possibility that they might vote for a candidate who cannot serve. Each of these
19 considerations satisfy section 13314 (a)(2).

20 26. This matter has statutory priority under section 13314 of the Elections Code and section
21 35 of the Code of Civil Procedure. This makes it possible to resolve this question on an expedited
22 basis prior to September 2, 2022. ‘

23 27. Filing for Anaheim City Council District 6 was extended to August 17 because no eligible
24 incumbent filed to run for reelection. (Elec. Code § 10225.) A ten-day public examination period
25 applies to the candidates’ candidate’s statements, released publicly for the first time on August
26 17. (Elec. Code § 13313.) While there is no limitation period that applies to this action, it is timely
27 filed within the 10-day public examination period that would apply to candidate statements in
28 Anaheim City Council District 6.


1 PRAYER FOR RELIEF

2 Wherefore, Petitioner prays that the Court:

- 3 1. Issue an Alternative and/or Peremptory Writ of Mandate ordering Respondents
4 to remove the name of Hari Lal from the ballot and all related elections material for the office
5 of Anaheim City Council, District 6;
- 6 2. Award Petitioner his attorneys' fees and costs reasonably incurred herein against
7 Real Party in Interest Hari Lal; and
- 8 3. For such other and further relief as the Court deems proper.
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11 DATE: August 26, 2022

Respectfully Submitted,
LAW OFFICE OF CHAD D. MORGAN

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13 By: _____
14 Chad D. Morgan Esq.
15 Attorney for Petitioner, Richard Reddish
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VERIFICATION

I, Chad Morgan declare that I am the counsel for Petitioner Richard Reddish in the above-entitled action. I have read the foregoing **Verified Petition Writ of Mandate** and know the contents thereof to be true to my own knowledge, except as to those statements made upon information and belief, and as to them, I believe them to be true. I make this verification on Petitioner's behalf because Petitioner is absent from the county in which I have my office, and time is of the essence. There is no time to wait for Petitioner's signature when all facts are based on public records and there is only one week between today and the ballot printing deadline.

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

Executed on August 26, 2022.



Chad Morgan