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Vargas v. Balz

Court of Appeal, Fourth District, Division 3, California - February 21, 2014 - Cal.Rptr.3d - 14 Cal. Daily Op. Serv. 1903

City resident filed a petition for a writ of mandate to compel the city clerk and the registrar to print ballot arguments submitted by two councilmembers as having been submitted by them and not by the city council. The Superior Court denied petition in part. Resident appealed.

The Court of Appeal held that:

- Omission of city council's name from signature form required city clerk to deem councilmembers to have submitted arguments as individuals;
- Clerk had no authority to modify the signature form to make it fulfill the requirements of an argument submitted by an organization; and
- Clerk violated Elections Code by failing to make publicly available the same material that was sent to the registrar.

Under the Elections Code, when two city council members submitted arguments in opposition to ballot measures without the council's name on the signature form, city clerk was duty bound to accept the signature form as an argument submitted by individuals, not by an organization, even if city clerk was aware of the intention of the city council to authorize the members to submit the arguments against the measures on behalf of the city council. City clerk had no authority, and certainly no duty, to modify the signature form to make it fulfill the requirements of an argument submitted by an organization.

City clerk violated the Elections Code by failing to make publicly available the same material that was sent to the registrar for inclusion in the sample ballot, where city clerk made a change in the signature block, and the information on the city's website and otherwise made publicly available was different from the information submitted to the registrar for inclusion in the sample ballot.

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