

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **BALLOT INITIATIVES - CALIFORNIA**

### **Denny v. Arntz**

**Court of Appeal, First District, Division 2, California - September 17, 2020 - Cal.Rptr.3d - 2020 WL 6059671 - 20 Cal. Daily Op. Serv. 10,653**

Plaintiff brought action against city officials seeking to set aside a passed proposition to fund repairs and improvements to a seawall. The Superior Court sustained officials' demurrer and dismissed without leave to amend. Plaintiff appealed.

The Court of Appeal held that:

- Plaintiff failed to state any statutory grounds for relief, as required to bring postelection contest;
- Demurrer was procedurally proper; and
- Plaintiff was not entitled to leave to amend complaint.

Plaintiff failed to state any statutory grounds for relief, as required to bring postelection contest to city proposition to fund repairs and improvements to a seawall; even though plaintiff labeled his claim as offense against elective franchise, complaint was actually challenge to sufficiency and impartiality of proposition's digest and ballot materials, which was not listed as grounds for postelection challenge, plaintiff did not bring action against candidate as statute required, and plaintiff did not avail himself of preelection procedures for challenging proposition's ballot materials or digest.

Demurrer to plaintiff's postelection contest to city proposition to fund repairs and improvements to a seawall was procedurally proper, despite contention that city officials were required to file an affidavit to respond to complaint; plaintiff did not properly allege grounds for postelection contest, and there was no incompatibility between demurrer and election contest, as election statute authorized dismissal on same standards as demurrer.

Plaintiff was not entitled to leave to amend complaint, which failed to state statutorily allowed claim for a postelection challenge to a city proposition to fund repairs and improvements to a seawall; proposed amendment was to add ground for relief that measure purported to impose ad valorem taxes for bonded indebtedness for purposes other than acquisition or improvement of real property, and plaintiff did not demonstrate how amendment would have allowed him to state cause of action.