

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

MINUTE ORDER

DATE: 08/19/2026

TIME: 09:00:00 AM

DEPT: N14

JUDICIAL OFFICER PRESIDING: Julianne Bancroft

CLERK: C. Sanchez

REPORTER/ERM: Laurie Held-Biehl

BAILIFF/COURT ATTENDANT: B. Espinosa

CASE NO: **30-2026-01580961-CU-WM-NJC** CASE INIT.DATE: 06/23/2026

CASE TITLE: **City of Newport Beach vs. Robert Page, in his Official Capacity as Registrar of Voters for Orange County**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Writ of Mandate

EVENT ID/DOCUMENT ID: 74905625

EVENT TYPE: Petition for Writ

MOVING PARTY: City of Newport Beach

CAUSAL DOCUMENT/DATE FILED: Amended Petition First, 07/09/2026

APPEARANCES

William H. Ihrke and Jennifer Farrel, from Rutan & Tucker, LLP, present for Petitioner(s).

Daniel Richards, from Leon J. Page, County Counsel, present for Respondent(s).

Paul Hastings and Navi S. Dhillon, from Paul Hastings LLP, present for Real Party In Interest (RpII), Interested Party(s).

Martin Koczanowicz, from Aleshire & Wynder, present.

Nathanial Acosta, counsel, present remotely.

Nancy Scarbrough, Laura Curran, Kathe Morgan, and Jim Mosher, observers, present remotely.

The following matters are called concurrently:

30-2026-01580961 City of Newport Beach vs. Robert Page, in his Official Capacity as Registrar of Voters for Orange County

30-2026-1559183 City of Newport Beach vs Newport Beach Stewardship Association

Hearing held, participants appearing remotely and in person.

Counsel provides an update on the current adherence to the Court's prior orders.

The request for judicial notice is GRANTED as to all documents attached to the request.

Counsel for the City requests a statement of decision.

Additionally, the City objects to the proposed order submitted by NBSA.

Counsel proceed to present their cases to the Court.

Oral arguments heard.

At 10:36 AM, the court is in recess.

At 10:50 AM, again in open court. Counsel and parties are present as indicated above.

Oral arguments resume.

Counsel for respondents in case 30-2026-01580961 request separate proposed orders be submitted for each case so the parties may clearly understand the Court's instructions to each respective party.

Oral arguments resume.

At 11:24 AM, the court is in recess.

At 2:02 PM, again in open court. Counsel and parties are present as indicated above.

After considering the arguments of all parties, both written and oral, as well as the evidence presented, the Court now rules as follows:

The issue before the Court at this juncture is whether four initiatives proposed by Newport Beach Stewardship Association meet the requirements of publication and/or posting. The Court and the parties have referred to these initiatives as the Sunshine Initiative (which was the subject of an earlier petition before this Court); the Housing Initiative (which is the subject of the City's petition, case No. 30-2026-01580961); the City Council term limits Initiative; and the City Council District Voting Initiative. The Sunshine Initiative, the Term Limits Initiative, and the District Voting Initiative are the subjects of NBSA's first amended cross-petition (case No. 30-2026-01559183).

Elections Code section 9205 provides the rules for publication and/or posting of a notice of intention and title and summary of a proposed measure before signatures may be collected. The Orange County Superior Court maintains a list of adjudicated newspapers of general circulation pursuant to Government Code sections 6000 to 6027. This list includes the Orange County Reporter and the Daily Pilot. This list does not specify that any newspaper is adjudicated as a newspaper of general circulation only for one city or one geographic region of the County. The Court finds that the Orange County Reporter has been adjudicated as a newspaper of general circulation, as described in section 9205, subdivision (a). The Court does not find that the Orange County Reporter is a newspaper of general circulation only in Santa Ana. Nor does the Court find that additional proof is required by any party to prove or disprove the adjudicated status of the Orange County Reporter. Therefore, the court finds that notice for all four initiatives was properly published before the collection of signatures began. The registrar of voters has confirmed that sufficient signatures were obtained for all four initiatives.

Even if this Court were to find that the Orange County Reporter was not an adjudicated newspaper of general circulation for purposes of section 9205, the Court would find that NBSA's notices were in substantial compliance with the requirements of the statute. The City argues that strict compliance is required, citing *Ibarra v. City of Carson* (1989) 214 Cal.App.3d 90, 99:

Whether a failure to comply with requirements of the Elections Code in circulating initiative or referendum petitions is fatal depends upon the nature and purpose of the statutory requirement. Technical defects of form may be excused if the petitions substantially comply with the requirement [citation], but actual compliance is required in respect to the substance essential to the objective of the statute. [Citation.] Where the purpose of the statutory requirement is to give information to the public to assist the voters in deciding whether to sign or oppose the petition, the substantial compliance argument is often rejected and strict compliance held essential. [Citations.] [¶] In the present case, as we have discussed, the requirement to give notice of intent prior to commencing circulation serves important purposes educating the public about the petition campaign before it begins."

In *Ibarra*, the initiative proponents published the notice, but did not post the notice until after they had begun collecting signatures. The Court finds that while the failure to comply with the posting requirement at all may be subject to strict compliance, a substantial compliance test applies here, if the notice was

published in AN ADJUDICATED NEWSPAPER OF GENERAL CIRCULATION, which it was.

The Court would also find that principles of estoppel apply in this case. Last fall, the City found that NBSA had met the publication and posting requirements for the Responsible Housing Initiative, for which notice was published in the Orange County Reporter. The only reason the City now claims the Housing Initiative failed to meet the publication and notice requirements is that NBSA submitted additional initiatives to the City. Had NBSA not done so, the matter would have proceeded to the November election without another thought. Further, given that the City did not raise any concern with respect to the notice publication of the Housing Initiative, NBSA had every right to believe the same process would be acceptable for the other initiatives.

Ultimately, the Court finds that the purpose of the publication and notice provisions in the Elections Code is to ensure the integrity of the initiative process by guaranteeing the voting public has the opportunity to fully participate throughout the elections process. The Court's findings and rulings today further that goal.

Although it is not a basis of this Court's ruling, the Court notes that the City's positions in the two matters before the Court could lead to a finding of obstructionism. When case No. 30-2026-01559183 first came before this Court, the City argued strongly and persuasively that the issue of whether the Sunshine Initiative violated the single subject rule should be addressed before the election, rather than after. With that in mind, the Court and the parties worked cooperatively to come up with a schedule for briefing and hearing first on the issue of preparation of a title and summary, and then on the issue of the single subject rule that would allow more than sufficient time to prepare the title and summary, collect and certify signatures, and prepare necessary ballot arguments, etc. After all of that the City raised the notice and publication issue for the first time. Further, while the City has argued in the current proceedings that any timing issues are the fault of NBSA, which submitted its signatures on the Sunshine Initiative, District Voting Initiative, and Term Limits Initiative on July 7, the Court notes that at least the Sunshine Initiative was held up by the single subject rule briefing and hearing. Further, while everyone seems to agree that the signatures were presented to the City Clerk on July 7, they were not sent on to the Registrar of Voters until this Court ordered the City to do so on July 17, 2026.

And the Court was required to order the City on multiple occasions to prepare ballot questions and arguments. The point of doing so was to prevent the delays that the City now contends prevent these initiatives from going on the November 2026 ballot. It has been represented to the Court that the City Council has a regularly scheduled meeting next week at which it will determine at which election the initiatives shall be placed on the ballot. The Court finds that the 10-day public examination period provided by Elections Code section 9295 is not required to occur before an initiative is placed on the ballot. Therefore, the Court finds that that examination period may occur concurrently with the transmission of the necessary paperwork to the registrar of voters, and that should not be a matter that impacts the City's discretionary duties at its next Council meeting.

Elections Code section 9255 requires that an initiative amending a city charter be submitted to the voters at an established statewide or regularly scheduled municipal election occurring not less than 88 days after the date of the order of election. The Court finds that the Sunshine, Term Limits, and Direct Voting Initiatives are not subject to this limit because the City's actions in this case caused the matters to be delayed beyond the normal time period. The Court further finds that this does not raise an issue of mandamus compelling the City to perform a void or illegal act, an act contrary to public policy, or an act which tends to aid in an unlawful purpose. (Swan v. Civil Service Commission (1971) 16 Cal.App.3d 710, 713.) To the contrary, the Court's orders today are consistent with its duty to jealously guard the public's right to use the initiative process. (Rossi v. Brown (1995) 9 Cal.4th 688, 695.)

As to case No. 30-2026-01580961, City of Newport Beach v Robert Page, the petition for writ of mandate is DENIED.

As to case No. 30-2026-01559183, petition entitled City of Newport Beach et al. v. Newport Beach Stewardship Association et al. and Cross-Petition entitled Newport Beach Stewardship Association et al v. Lena Shumway et al, the Petition for Writ of Mandate is GRANTED and a peremptory writ shall issue. That writ shall command the City of Newport Beach, the City Council of the City of Newport Beach, Lena Shumway, in her official capacity as the Newport Beach City Clerk, and Aaron Harp, in his official capacity as the Newport Beach City Attorney (cross-respondents and real parties in interest) to:

1. Exercise its/their discretion to decide at which election the three initiatives will be placed on the ballot;
2. If the decision is made to place the three initiatives on a ballot other than the November 2026 ballot, cross-respondents and real parties in interest shall provide an explanation why in their return to the peremptory writ of mandate;
3. The 10 days for public examination provided by Elections Code section 9295 may run even after the initiative paperwork has been forwarded to the Registrar of Voters, and therefore the need for a 10-day public examination period should not impact the City's Council's discretionary determination at its next meeting regarding these initiatives;
4. File and serve a return to the writ within 10 days after service.

Counsel for NBSA shall prepare the necessary orders and/or writs for each case separately.

At 2:17 PM, the court is adjourned in this matter.