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14 and Real Parties in Interest
15 CITY OF NEWPORT BEACH,
16 NEWPORT BEACH CITY COUNCIL,
17 AARON HARP, and LENA SHUMWAY

16 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 COUNTY OF ORANGE

18 CITY OF NEWPORT BEACH, et al.,

19 Plaintiffs,

20 vs.

21 NEWPORT BEACH STEWARDSHIP
22 ASSOCIATION, et al.,

23 Defendants.

24 NEWPORT BEACH STEWARDSHIP
25 ASSOCIATION, et al.,

26 Cross-Petitioners,

27 vs.

28 LENA SHUMWAY, et al.,

Cross-Respondents,

CITY OF NEWPORT BEACH, et al.,

Real Parties In Interest.

No.: 30-2026-01559183-CU-JR-NJC

Action Filed: March 26, 2026

ASSIGNED FOR ALL PURPOSES TO:
Hon. Julianne Bancroft, Dept. N14

INITIAL RETURN TO WRIT OF MANDATE

**No Fee:
Cal. Gov't Code § 6103**

1 **INITIAL RETURN OF RESPONDENTS CITY OF NEWPORT BEACH, ET AL.**
2 **TO WRIT OF MANDATE DATED SEPTEMBER 2, 2026**

3 Respondents City of Newport Beach, et al. respectfully file this early Return to the
4 Court's order of September 2, 2026, to apprise the Court of efforts undertaken to date and to seek the
5 Court's further direction given the unavailability of critical election resources from the County and
6 State that will have the effect of denying eligible Newport Beach voters an opportunity to vote in the
7 City's special standalone election on November 3, 2026. Respondents report as follows:

8 1. The City's efforts to comply with the Court's orders began on August 27, 2026,
9 when the Court issued its minute order directing the City "to immediately take the necessary steps to
10 place these three initiatives on the November 3, 2026 ballot, including but not limited to forwarding all
11 necessary materials to the Orange County Registrar of Voters."

12 2. In response to that order and on the same day it was issued, counsel for the City
13 sent a letter electronically and by personal delivery to the Orange County Registrar of Voters, the
14 County Counsel, and the Clerk of the Orange County Board of Supervisors. (Ihrke Decl., Ex. 1.) The
15 letter transmitted the materials necessary for the Registrar to consolidate the City election with the
16 November 3, 2026 statewide election and stated that if the Registrar or County Counsel "believes that
17 any additional material or action is required in response to the 8/27/2026 Minute Order, please identify
18 the requested material or action ***immediately*** and with specificity." (Ihrke Decl., Ex. 1., emphasis in
19 original.) Included within that correspondence were the text of the measures, the ballot questions, and
20 arguments for and against the measures. (Ihrke Decl., ¶ 3 & Ex. 1.)

21 3. Since the City first requested assistance from the County Registrar on August
22 27, 2026, the Registrar has repeatedly declined to consolidate the election ordered by the Court with
23 the statewide election on November 3, 2026, or to provide the City the kind of assistance that would be
24 required for the City to conduct the election on its own. In declining to provide election support, the
25 Registrar cited various Elections Code provisions as well as practical concerns about voter confusion
26 and risks to his ability to conduct the statewide general election. In fact, the Board of Supervisors has
27 not placed the City's request for election assistance made pursuant to Elections Code section 10002 on
28 the agenda for consideration by the Board of Supervisors, despite express authorization for a city to

1 request the county elections official provide specified services relating to the conduct of an election
2 pursuant to this section. (Shumway Decl., ¶¶ 3, 13, 26, 28, 43 & Exs. 1, 6, 14, 25.)

3 4. When the County said that it would not consolidate the City election with the
4 statewide election on August 28, 2026, the City had no choice but to conduct a stand-alone election to
5 occur on the same day as the statewide election on November 3, 2026. The City of Newport Beach has
6 not conducted a stand-alone election in 44 years, and it immediately began a search for election experts
7 who could assist the City with a standalone election. (Shumway Decl., ¶ 5.) Preparations for an election
8 normally take eight to twelve months even for county registrars of voters. (Blair Decl., ¶ 3.) The City
9 had to find consultants able to help the City hold a standalone election in approximately two months.

10 5. On September 3, 2026, the City retained Jessica Blair of Stellara Group, LLC,
11 who has more than 25 years of California local-government experience and experience administering
12 municipal elections, including standalone municipal elections. (Blair Decl., ¶¶ 1-2.)

13 6. Because the City lacks both the equipment and personnel to conduct any
14 election that involves in-person voting, the City concluded that it had no choice but to conduct the
15 court-ordered election using all mail ballots. (Blair Decl., ¶ 9.) To move the mail-only election
16 forward, the City's consultant identified available vendors for ballot production and mailing, ballot
17 management, and the leasing of voting equipment. In addition, the Consultant immediately began
18 making plans for assembling an experienced municipal election team for ballot processing and
19 tabulation. (Blair Decl., ¶ 10.)

20 7. While the Consultant believed she could help the City successfully administer
21 the election, it was clear that the City still needed the cooperation of the Orange County Registrar and
22 the Secretary of State to send out ballots and to process them once they are returned. For example,
23 although the County has provided the City the list of registered voters in Newport Beach,¹ that list is
24 incomplete because it does not include voters whose names and addresses are kept confidential
25 pursuant to Elections Code Sections 2166 to 2166.9. These include people like public safety officers
26 and victims of domestic violence or abuse. (Elec. Code, §§ 2166.5, 2166.7.) Importantly, as of

27 _____
28 ¹ This list is available to "to any person for election, scholarly, journalistic, or political purposes"
pursuant to Elections Code Section 2194(a)(3).

1 January 1, 2026, the list of registered voters excludes the elected officials and candidates at both the
2 state and local levels, unless they have affirmatively decided to waive their right to confidentiality.
3 (*Id.*, § 2166.9.) Without this information, the City is unable to send a ballot to allow candidates for
4 City Council to vote on charter amendments that will affect the very offices for which they are
5 running. The County has declined to produce the list of confidential voters. (Shumway Decl., ¶¶ 13,
6 50 & Exs. 6, 20.)

7 8. The City will also need to access a database of images of voter signatures to
8 verify signatures on the envelopes in which voters return their ballots because Elections Code Section
9 3019 requires the elections official to compare the signature on a vote-by-mail ballot identification
10 envelope with the signatures contained in the voter's registration record. Only the Registrar and the
11 Secretary of State have that information, and they have both declined to provide it. (Shumway Decl.,
12 ¶¶ 23-24, 30, 45, 51 & Ex. 19; Harp Decl., ¶ 14 & Ex. 8.)

13 9. The County also has exclusive control of the County's registered voter rolls,
14 which include up-to-date information regarding recent changes in voter registration status. Without
15 this information, the City will not have an accurate, comprehensive, and up-to-date list of all City
16 residents who are registered and eligible to vote as of election day. In addition, the City will need the
17 County to provide a written chain-of-custody process for City ballots that are inadvertently returned to
18 County vote centers or drop boxes, as well as for County ballots that are mistakenly delivered to City
19 locations. As of the date of this filing, the City has not received any of these elements from the
20 County. (Blair Decl., ¶ 21; Shumway Decl., ¶ 50.)

21 10. There has also been a critical lack of cooperation from the Secretary of State's
22 Office. Although the City has engaged a qualified printer, printing of ballots cannot begin until the
23 Secretary of State provides a ballot release as well as the tint and watermark that must be used on the
24 ballots. Elections Code Section 13002 provides: "Ballot paper and ballot cards used by a jurisdiction
25 holding an election pursuant to the laws of California shall be tinted and watermarked or overprinted
26 with a design, to be furnished by the Secretary of State, so that the watermark or overprint is plainly
27 discernible."
28

1 11. The City has requested that the Secretary of State provide the tint and watermark
2 required under Section 13002, but as of this writing, the Office of the Secretary of State has declined to
3 provide it. The City has told the Chief Legal Counsel for the Secretary of State that it is under court
4 order to conduct the election on November 3, 2026, and it cannot print ballots without the ballot
5 release, tint and watermark. (Harp Decl., Ex. 10.) To date, the Secretary of State has declined to
6 furnish these resources. (Harp Decl., ¶ 16 & Ex.10.) The City opted to print and send its own ballots
7 to overseas voters without this information, because state law allows those voters to receive ballots
8 electronically and print them themselves without the tint or watermark and it allows certain military
9 and overseas voters to return ballots by fax. (Elec. Code, §§ 3105, 3106.) However, the City cannot
10 print and mail ballots to the City’s more than 60,000 non-overseas voters without the ballot release, tint
11 and watermark information from the Secretary of State that is required by Elections Code Section
12 13002. (Harp Decl., ¶ 16; Blair Decl., ¶ 20.)

13 12. The election vendors have informed the City’s election consultant that the very
14 last day they could receive approvals and releases from the Secretary of State and a full voter file from
15 the County is October 7th to meet the October 19, 2026 mailing target. (Shumway Decl., ¶ 52; Blair
16 Decl., ¶ 22.) This is important because the County of Orange did not place the City’s request for
17 assistance pursuant to Elections Code Section 10002 on the Board of Supervisors’ September 29, 2026,
18 agenda for consideration, and the Board does not have another regularly scheduled Board meeting
19 calendared until October 13, 2026.

20 13. Even if the City is able to print and mail ballots, it will need cooperation from
21 the Secretary of State to count them once they come in. Any ballot tabulating machine used in an
22 election must receive from the Secretary of State a “trusted build” approval to verify that the machine’s
23 software is secure and reliable. Although the City has engaged Hart InterCivic, Inc. for leasing voting
24 equipment, without “trusted build” approval from the Secretary of State, it cannot use that equipment
25 to tabulate ballots. (Blair Decl., ¶ 20; Shumway Decl., ¶ 52.)

26 14. Despite these issues, the Stellara team and City staff have continued to do what
27 they can to prepare for the upcoming election by identifying the election administration components
28 the City and its vendors could proceed to move forward independently. This included the work of

1 ballot-production planning, vendor coordination, voter/ballot-management configuration, equipment
2 planning, staffing, processing and tabulation planning, security procedures, and other standalone-
3 election functions. (Blair Decl., ¶ 12.)

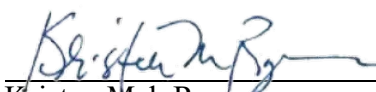
4 15. However, without assistance from the State, the County, and the Registrar on the
5 issues described above, the City cannot conduct the election as required by law. Specifically, the City
6 will lack the names and addresses of confidential voters so those eligible voters will not receive a
7 ballot; it will be unable to print and mail ballots that comply with the Elections Code; it will have no
8 chain of custody protocols with the Registrar to handle ballots that are misdirected either to the City or
9 to the County; it will have no means of verifying signatures on the ballot envelopes; and it will have no
10 legally valid machines for tabulating the votes.

11 16. At this time, the City is continuing to take all steps within its control to comply
12 with the Court's order and conduct the election on November 3, 2026. Because there is limited time
13 remaining and critical election resources and information necessary to conduct the election in
14 accordance with state law remain within the control of the County, the Registrar, and the Secretary of
15 State, the City respectfully suggests that the Court schedule a case management conference at its
16 earliest possible convenience to discuss with the parties whether and how the City can obtain the help
17 that it needs from the Registrar and the Secretary of State in order to conduct the election on November
18 3, 2026. To facilitate that discussion, the City has provided courtesy copies of this return and its
19 supporting documents to counsel for the Secretary of State and the Orange County Registrar of Voters.

20 Dated: September 28, 2026

Respectfully submitted,

21 OLSON REMCHO LLP

22 By: 
23 Kristen Mah Rogers

24 Attorneys for Plaintiffs, Cross-Respondents
25 and Real Parties in Interest
26 CITY OF NEWPORT BEACH, NEWPORT BEACH
27 CITY COUNCIL, AARON HARP, and LENA
28 SHUMWAY

1 **PROOF OF SERVICE**

2 I, the undersigned, declare under penalty of perjury that:

3 I am a citizen of the United States, over the age of 18, and not a party to the within
4 cause of action. My business address is 555 Capitol Mall, Suite 400, Sacramento, California 95814.

5 On September 28, 2026, I served a true copy of the following document(s):

6 **INITIAL RETURN TO WRIT OF MANDATE**

7 on the following party(ies) in said action:

8 Navi S. Dhillon, Esq.
9 Winston Stromberg, Esq.

10 Dylan Crosby, Esq.
11 Lucas Grunbaum, Esq.
12 Aaron M. Reuben, Esq.

13 Beau Stockstill, Esq.
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Attorney for Defendants and Cross-Petitioners,
NEWPORT BEACH STEWARDSHIP
ASSOCIATION and MARSHALL "DUFFY"
DUFFIELD

19 ☐ **BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed envelope or
package addressed to the person(s) at the address above and

20 ☐ depositing the sealed envelope with the United States Postal Service, with the postage
21 fully prepaid.

22 ☐ placing the envelope for collection and mailing, following our ordinary business
23 practices. I am readily familiar with the business's practice for collecting and
24 processing correspondence for mailing. On the same day that correspondence is
placed for collection and mailing, it is deposited in the ordinary course of business
with the United States Postal Service, located in Sacramento, California, in a sealed
envelope with postage fully prepaid.

25 ☐ **BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope or package
26 provided by an overnight delivery carrier and addressed to the persons at the addresses listed.
27 I placed the envelope or package for collection and overnight delivery at an office or a
regularly utilized drop box of the overnight delivery carrier.

- 1 ☐ **BY MESSENGER SERVICE:** By placing the document(s) in an envelope or package
2 addressed to the persons at the addresses listed and providing them to a professional
3 messenger service for service.
- 4 ☐ **BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons at the fax
5 numbers listed based on an agreement of the parties to accept service by fax transmission. No
6 error was reported by the fax machine used. A copy of the fax transmission is maintained in
7 our files.
- 8 ☐ **BY EMAIL TRANSMISSION:** By emailing the document(s) to the persons at the email
9 addresses listed based on a court order or an agreement of the parties to accept service by
10 email. No electronic message or other indication that the transmission was unsuccessful was
11 received within a reasonable time after the transmission.
- 12 ☒ **BY EMAIL TRANSMISSION (ONE LEGAL):** By electronically submitting for filing and
13 service the document(s) listed above through One Legal, an electronic filing vendor approved
14 by this Court. The name of the vendor and the transaction receipt I.D. are given in the
15 vendor's emailed Notification of Service.

16 I declare, under penalty of perjury, that the foregoing is true and correct. Executed on
17 September 28, 2026, in Sacramento, California.

18 
19 _____
20 Eva Alfaro

21 (2,320,590)