

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**FILED**

DEC 13 2023

*BM*

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF HUMBOLDT

***SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT***

JOHN LEE CASALI, et al.,  
Petitioners,

CASE NO. CV2301608

vs.

RULING, ORDER, AND JUDGMENT  
ON PETITIONERS' PETITION FOR  
WRIT OF MANDATE

JUAN P. CERVANTES, et al.,  
Respondent,

MARK THURMOND and ELIZABETH  
WATSON,  
Real Parties in Interest.

\_\_\_\_\_ /

Petitioners' Petition for Writ of Mandate came on regularly for hearing on November 28, 2023, at 10:30 a.m. in Department 4 of the above-captioned court, Judge Timothy A. Canning presiding. Attorney Nicholas Sanders appeared on behalf of Petitioners; attorney Alena Shamos appeared for Respondent, and attorney Kevin Bundy appeared on behalf of Real Parties in Interest.

Having read and considered the parties' memoranda, declarations, exhibits, the text of the ballot initiative, and having heard and considered the oral argument by counsel at the hearing,

1 with good cause appearing, the Court rules as follows.

2           Petitioners seek a writ of mandate and injunctive and declaratory relief directed to  
3 Respondent Juan Cervantes, the Humboldt County Registrar of Voters, to remove a ballot  
4 measure from the March 5, 2024 ballot for Humboldt County. Real Parties in Interest are the  
5 proponents of that ballot measure, designated as Measure A, also known as the “Humboldt  
6 Cannabis Reform Initiative.” Measure A was qualified for the ballot after the Registrar  
7 confirmed that an adequate number of valid signatures were collected, and on October 25, 2022,  
8 the Humboldt County Board of Supervisors voted unanimously to place Measure A on the March  
9 5, 2024 ballot.

10           According to Real Parties in Interest, Measure A is intended to protect Humboldt  
11 County’s environment, residents, and watersheds from harm caused by commercial cannabis  
12 cultivation. Measure A seeks to accomplish that goal by amending the Humboldt County General  
13 Plan’s land use element and the Local Coastal Plans. Real Parties admit that the County’s  
14 zoning ordinances will need to be revised to ensure consistency with Measure A, should it pass.

15           Petitioners contend that Measure A should be removed from the ballot, because it fails to  
16 comply with the “full text” requirement of the Elections Code, and further contains inaccurate  
17 information about whether it effects large cannabis grows or all cannabis grows. Petitioners  
18 seek a writ of mandate, injunctive relief, and declaratory relief to prevent the Registrar from  
19 placing Measure A on the March 5, 2024 ballot.

20           Unless it is clear that a proposed initiative or ballot proposition is unconstitutional, the  
21 courts should not interfere with the right of the people to vote on initiatives. *Finnie v. Town of*  
22 *Tiburon* (1988) 199 Cal.App.3d 1, 12-13 (citations and internal quotation marks removed).  
23 Instead, it is usually more appropriate to “review constitutional and other challenges to ballot  
24 propositions or initiative measures after an election rather than to disrupt the electoral process by  
25 preventing the exercise of the people’s franchise, in the absence of some clear showing of

1 invalidity.” *Id.* As the *Finnie* court observed, “The rationale of this holding is that the initiative  
2 or referendum is one of the most precious rights of our democratic process which the court must  
3 jealously guard against any infringement.” *Id.*

4 There are exceptions to the general rule. The first is where the electorate lacks the power  
5 to adopt the proposal, where, for example, the ballot measure is not legislative in character, or its  
6 subject matter is not a municipal affair, or the proposal would amount to a revision rather than  
7 amendment of the Constitution. *Finnie v. Town of Tiburon, supra*, 199 Cal.App.3d at pp.12-13.  
8 The second exception to the general rule is where the substantive provisions of the proposed  
9 measure are legally invalid. *Id.*

10 Petitioners contend that Measure A fails to meet the requirements for an initiative, and  
11 therefore should not be allowed on the ballot, primarily on the grounds that Measure A does not  
12 address or recite all the County ordinances that it may effect, and therefore fails to satisfy the  
13 “full text” requirement of Elections Code section 9101.

14 Elections Code section 9101 provides, in relevant part:

15 Each petition section shall comply with Sections 100 and 9020 and contain a full  
16 and correct copy of the notice of intention and accompanying statement  
including the full text of the proposed ordinance.

17 With these standards in mind, the Court finds as follows.

18 First, the Court finds that the petition is not barred by laches. Though this petition could  
19 have been filed much earlier than it was, there was an insufficient showing of prejudice to the  
20 County or to Real Parties in Interest caused by the delay in filing.

21 Second, the Court finds that Measure A complies with the full text requirement of  
22 Elections Code section 9101, by explicitly stating the ordinances it proposes to enact, amend or  
23 repeal. It is likely that Measure A, if it is approved by voters, will have effects on other County  
24 ordinances or policies. The Board of Supervisors may well decide to amend other ordinances.  
25 However, California law does not require proponents of initiatives to state verbatim each

1 ordinance that the initiative may effect or impact. Instead, the full text requirement of Elections  
2 Code section 9101 only requires that the text of the ordinances that Measure A itself proposes to  
3 add, change, or repeal must be spelled out in the initiative itself. *Pala Band of Mission Indians v.*  
4 *Bd. of Supervisors* (1997) 54 Cal.App.4th 565, 575-78. The Court finds that Measure A  
5 adequately does so.

6 Third, the Court finds that Measure A was not required to have included copies of all  
7 ordinances that it may effect. See, e.g., *We Care Santa Paula v. Herrera* (2006) 139 Cal.App.4th  
8 387. If Measure A passes, it could effect, for example, County taxes on various methods of  
9 growing cannabis, and, as Real Parties admit, some zoning ordinances may need to be amended.  
10 But Measure A itself does not propose to increase taxes, or change specific zoning ordinances,  
11 and therefore its proponents were not required to include those potentially effected ordinances in  
12 the initiative itself.

13 Fourth, the Court finds that there is an insufficient showing of conclusively and  
14 objectively false or misleading information in the initiative. *San Francisco Forty-Niners v.*  
15 *Nishoka* (1999) 75 Cal.App.4th 637, 645. Opinions may (and do) differ as to whether Measure A  
16 effects only large scale grows or whether it effects smaller farms as well, and whether Measure  
17 A is or is not good policy for Humboldt County. However, there is insufficient evidence that the  
18 language of Measure A is deliberately false or misleading.

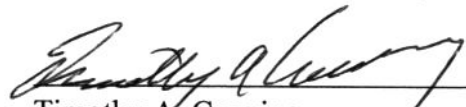
19 To be clear, the Court makes no findings on the merits of Measure A, as that is for the  
20 voters to decide. But the Court does find that there is an insufficient showing of objectively and  
21 deliberately untrue facts or statements in Measure A such that this Court should prevent  
22 Humboldt County voters from deciding whether or not to adopt it. *San Francisco Forty-Niners*  
23 *v. Nishoka, supra*, 75 Cal.App.4th at p. 645 (proposition contained deliberately false information  
24 and factual statements that were false beyond dispute); see *Owens v. County of Los Angeles*  
25 (2013) 220 Cal.App.4th 107, 131.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

For the foregoing reasons,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT Petitioners' petition for writ of mandate and for injunctive and declaratory relief is denied.

Dated: December 11, 2023

  
\_\_\_\_\_  
Timothy A. Canning  
Judge of the Superior Court

PROOF OF SERVICE BY MAIL

I am a citizen of the United States, over 18 years of age, a resident of the County of Humboldt, State of California, and not a party to the within action; that my business address is Humboldt County Courthouse, 825 5<sup>th</sup> St., Eureka, California, 95501; that I served a true copy of the attached RULING, ORDER AND JUDGMENT ON PETITIONERS' PETITION FOR WRIT OF MANDATE by placing said copies in the attorney's mail delivery box in the Court Operations Office at Eureka, California on the date indicated below, or by placing said copies in envelope(s) and then placing the envelope(s) for collection and mailing on the date indicated below following our ordinary business practices. I am readily familiar with this business practice for collecting and 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 at Eureka, California in a sealed envelope with postage prepaid. These copies were addressed to:

Nicholas Sanders, 1121 L Street, Suite 105, Sacramento, CA 95814

Kevin Bundy, 396 Hayes Street, San Francisco, CA 94102

Alena Shamos, 420 Sierra College Drive, Suite 140, Grass Valley, CA 95945-5091

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

Executed on the 13<sup>th</sup> day of December 2023, at the City of Eureka, California.

Meara C. Hattan, Clerk of the Court

By Beth E. Moga  
Deputy Clerk