

FILED BARSTOW
SAN BERNARDINO COUNTY
SUPERIOR COURT

MAR 13 2006

By Amy V. Trujillo
Deputy

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO, BARSTOW DISTRICT

BARSTOW CITIZENS FOR REAL ECONOMIC
DEVELOPMENT, a California Unincorporated
Association; LOS COYOTES BAND OF CAHUILLA
AND CUPENO INDIANS, a federally recognized
tribe of Indians; and GREGORY LINT, Individually
and on behalf of the members of the Barstow Citizens
for Real Economic Development,

Petitioners and Plaintiffs,

v.

CITY OF BARSTOW; JOANNA COUSINO, in her
capacity as City Clerk of the City of Barstow; KARI
VERJIL, in her capacity as the Registrar of Voters for
the County of San Bernardino; and DOES 1
THROUGH 100, inclusive,

Respondents and Defendants.

MANUEL GURULE, an Individual; and
COMMITTEE FOR 2,800 NEW JOBS, a California
Unincorporated Association,

Real Parties in Interest.

CASE NO. BCV 08816

~~PROPOSED~~ ORDER DENYING
MOTION FOR ISSUANCE OF
WRIT OF MANDATE AND
DISMISSING VERIFIED
PETITION FOR WRIT OF
MANDATE AND COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF

Judge: Hon. John P. Vander Feer
Dept: 2B

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[PROPOSED] ORDER

1 This matter came before the Court on March 1, 2006, at 8:30 a.m. in Department B2.
2 Joe D. Deutsch and Paul A. Kroeger of Jeffer, Mangels, Butler & Marmaro LLP appeared
3 on behalf of Petitioners and Plaintiffs Barstow Citizens for Real Economic Development,
4 Los Coyotes Band of Cahuilla and Cupeno Indians, and Gregory Lint ("Petitioners").
5 Lawrence Permaul of Colantuono & Levin P.C. appeared telephonically on behalf of
6 Respondents and Defendants City of Barstow and City Clerk Joanna Cousino. Charles
7 Scolastico of the Office of San Bernardino County Counsel appeared telephonically on
8 behalf of Respondent and Defendant Registrar of Voters Kari Verjil. Fredric D. Woocher
9 and Bryce A. Gee of Strumwasser & Woocher LLP appeared on behalf of Real Parties in
10 Interest Manuel Gurule and Committee for 2,800 New Jobs ("Real Parties").

11 Upon consideration of the pleadings, papers, declarations, evidentiary exhibits, and
12 arguments presented in support of and in opposition to Petitioners' Motion for Writ of
13 Mandate by Petitioners and Real Parties at a hearing before this Court on March 1, 2006, and
14 for the reasons stated by the Court on the record at the March 1, 2006, hearing:

15 The Court finds that pre-election review is not appropriate as to the following
16 allegations in the Verified Petition for Writ of Mandate and Complaint for Declaratory and
17 Injunctive Relief ("Petition and Complaint"):

- 18 1. That the Barstow Economic Stimulus Initiative Petition (the "Initiative
19 Petition") creates an inconsistency with the General Plan;
- 20 2. That the Initiative Petition violates Article II, section 12 of the California
21 Constitution;
- 22 3. That the Initiative Petition seeks to affect administrative actions of the city;
- 23 4. That the Initiative Petition creates conflicts with federal law;
- 24 5. That the Initiative Petition violates the Equal Protection Clauses of the
25 California and United States Constitutions; and
- 26 6. That the Initiative Petition violates the Impairment of Contracts Clauses of the
27 California and United States Constitutions.

28 With respect to Petitioners' remaining allegations in the Petition and Complaint that

1 the Initiative Petition violates the full text requirement of California Elections Code § 9201
 2 and that voters were induced to sign the Initiative Petition after being given incomplete and
 3 confusing information, while these claims are entitled to pre-election review, the Court finds
 4 that Petitioners have failed to demonstrate that these alleged deficiencies of the Initiative
 5 Petition would likely mislead the public, otherwise undermine or frustrate the basic purposes
 6 served by the relevant statutory requirements, or adversely affect the integrity of the electoral
 7 process.

8 IT IS HEREBY ORDERED that Petitioners' Motion for Issuance of a Writ of
 9 Mandate is DENIED, and IT IS FURTHER ORDERED that the first cause of action for
 10 Petition of Writ of Mandate in the Petition and Complaint is therefore dismissed with
 11 prejudice.

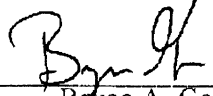
12 IT IS FURTHER ORDERED that the second cause of action for Declaratory and
 13 Injunctive Relief in the Petition and Complaint is dismissed with prejudice as moot.

14
 15 DATE: MAR 13 2006

JOHN P. VANDER FEER

 Hon. John P. Vander Feer
 Judge of the Superior Court

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 22 Submitted on March 2 2006, by:
 23 STRUMWASSER & WOOCHEK LLP

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 25 By: 
 26 Bryce A. Gee
 27 Attorneys for Real Parties in Interest