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DJS

CONVENE COURT  
 OF ORIGINAL JUDICIAL  
 Los Angeles Superior Court  
 DEC 11 2006  
 John A. Clarke, Executive Under Clerk  
 Deputy

5 *Attorney for Plaintiffs*  
 DAVID HERNANDEZ,  
 6 TED HAYES

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 8 FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

9 DAVID HERNANDEZ, and TED  
 10 HAYES,

Case No:

BS 106456

11  
 12 Petitioners,

VERIFIED PETITION FOR WRIT OF  
 MANDATE  
 [Cal. Code Civ. Proc. § 1085]

13 vs.

14 COUNTY OF LOS ANGELES, CITY OF  
 15 LOS ANGELES, and DOES 1 through 10,  
 16 inclusive,

17 Respondents.

18 LOS ANGELES CITY COUNCIL and  
 19 DOES 11 through 30, inclusive,

20 Real Parties in Interest.  
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 22

23 Petitioners DAVID HERNANDEZ and TED HAYES, allege as follows:

- 24 1. Petitioner David Hernandez ("Hernandez") is a registered voter and resident of  
 25 the City of Los Angeles ("City"), residing and voting in the Fifth Council District. The Fifth  
 26 Council District is currently represented on the Los Angeles Council by Councilman Jack Weiss.  
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1           2.       Petitioner Ted Hayes ("Hayes") is a registered voter and resident of the City of  
2 Los Angeles, residing and voting in the First Council District. The First Council District is  
3 currently represented on the Los Angeles Council by Councilman Ed Reyes.

4           3.       On August 2, 2006, Real Party in Interest Los Angeles City Council ("Council")  
5 enacted Ordinance No. 177773, approving the placement of Measure R on the November 7,  
6 2006, city-wide special election ballot consolidated with the statewide election also held on  
7 November 7, 2006. A true and correct copy of Ordinance No. 177773 is attached hereto as  
8 Exhibit A. A true and correct copy of the Council Resolution proposing the full text of Measure  
9 R for submission to the voters (hereafter, "Measure R" or "Measure R Resolution") is attached  
10 hereto as Exhibit B.

11           4.       By its terms, Measure R amends the Los Angeles City Charter ("LA Charter")  
12 and the Los Angeles Municipal Code ("LA Code"). Measure R amends the LA Charter by, *inter*  
13 *alia*, amending Section 206 of the LA Charter to read: "No person may serve more than three  
14 terms of office as member of the City Council." (Exhibit B at p. 1.) Measure R amends the LA  
15 Code by, *inter alia*, amending Section 48.02 of the LA Code to revise the definitions of  
16 "Lobbying firm" and "Lobbyist," and adding a new Section 49.5.18 to the LA Code, requiring  
17 City officials "to participate in an ethics training no less than once every two years[.]" (Exhibit  
18 B at pp. 3, 5.)

19           5.       In the November 7, 2006, election a majority of voters passed and approved  
20 Measure R, by a margin of 59.53% to 40.47% (375,433 "yes" votes to 255,242 "no" votes).<sup>1</sup>  
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28 <sup>1</sup> See County of Los Angeles Registrar-Recorder/County Clerk Election Results, last updated  
12/03/2006, at: [http://rrccmain.co.la.ca.us/0016\\_LocalContest\\_Frame.htm](http://rrccmain.co.la.ca.us/0016_LocalContest_Frame.htm). See also print-out of  
this webpage attached hereto as Exhibit C.

1           6.       On information and belief, on December 5, 2006, Respondent County of Los  
2 Angeles ("County") certified the results of the November 7, 2006 general election, including  
3 certification of Measure R.<sup>2</sup> On information and belief, Respondent County and City are  
4 responsible for implementing the LA Charter and LA Code amendments contained in Measure  
5 R.

6           7.       The true names and identities of Respondent Does 1 through 10, inclusive, are  
7 unknown to Petitioners at the present time, and when Petitioners ascertain the true names and  
8 capacities of said Respondents, Petitioners will seek leave of Court to amend this Petition by  
9 setting forth same. On information and belief, Petitioners believe and thereon allege that each of  
10 the fictitiously named Respondents is responsible in some manner for implementing Measure R.  
11

12           8.       The true names and identities of Real Parties in Interest Does 11 through 30,  
13 inclusive, are unknown to Petitioners at the present time, and when Petitioners ascertain the true  
14 names and capacities of said Real Parties in Interest, Petitioners will seek leave of Court to  
15 amend this Petition by setting forth same. On information and belief, Petitioners believe and  
16 thereon allege that each of the fictitiously named Real Parties in Interest will be directly affected  
17 by implementation of Measure R.  
18

19           9.       Respondents have a duty to refuse to enforce or give any effect to laws that  
20 violate the California Constitution.  
21

22           10.      The California Constitution, Article II, Section 8(d), mandates: "An initiative  
23 measure embracing more than one subject may not be submitted to the electors or have any  
24 effect." Article II, Section 8, applies to the amendments proposed by Measure R.  
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28 <sup>2</sup> See *Los Angeles Daily News*, December 6, 2006, at:  
[http://www.dailynews.com/search/ci\\_4786045](http://www.dailynews.com/search/ci_4786045) (last accessed 12/10/06). See also print-out from  
Lexis-Nexis of this article, attached hereto as Exhibit D.

1 11. Measure R violates the California Constitution, Article II, Section 8(d), by  
2 enacting changes to the LA Charter and LA Code that embrace "more than one subject."  
3 Enforcement and/or implementation of Measure R therefore violates Respondents' duty to abide  
4 by the mandates of the California Constitution.

5 12. On July 28, 2006, prior to the Council's adoption of the Measure R Resolution,  
6 City of Los Angeles City Attorney Rockard J. Delgadillo transmitted to the Council a "Report  
7 Re: Transmittal of Two Alternatives To Lengthen Term Limits and Amend City Ethics,  
8 Lobbying, and Campaign Finance Laws," Report No. R06-0275, a true and correct copy of  
9 which is attached hereto as Exhibit E ("City Attorney's Report").  
10

11 13. In relevant part, the City Attorney's Report summarized Measure R as a:  
12

13 "proposed ballot measure [consisting] of Charter amendments on  
14 **four subject-areas**: (1) term limits; (2) Commissioner  
15 qualifications; (3) banning lobbyist contributions; and (4) revising  
16 independent expenditure disclaimer provisions. The proposed  
17 measure **also consists of an ordinance** which would revise the  
18 lobbyist and lobbying firm registration requirements, require  
19 proposed contractors to sign an additional certification that they  
20 understand the City's lobbying law, extend the City's post-  
21 employment lobbying restrictions to two years for City elected  
22 officials, ban gifts from lobbyists and lobbying firms when they  
23 are a restricted source to a City official (unless an exception  
24 applies), require biennial ethics training for all City officials, and  
25 revise the notice requirements for persons making independent  
26 expenditures or member communications and disclaimer  
27 requirements for both candidates and committees making  
28 independent expenditures.

(Exhibit E at p. 3, emphasis added.)

14. In relevant part, the City Attorney's Report advised the Council: "Finally, we also  
note that combining Charter amendments and ordinance provisions in the same ballot question  
has not been the City's prior practice and could be subject to legal challenge. . . . **Our concern**  
**is heightened here where the municipal ordinance that Council seeks to place before the**

1 voters is not directly related to the Charter Amendment to lengthen term limits.” (Exhibit  
2 E at p. 2, emphasis added.)

3 15. The issue of whether the LA Charter and LA Code amendments imposed by  
4 Measure R violate the California Constitution is an important issue of public concern.

5 16. Petitioner Hernandez has a beneficial interest in ensuring, through this Petition,  
6 that Respondents are compelled to act in compliance with the California Constitution, in that  
7 Hernandez (1) is a citizen seeking to procure enforcement of a public duty, and (2) Hernandez is  
8 a resident of the City of Los Angeles whose current representative on the Council, Jack Weiss,  
9 will be eligible for re-election to a third term unless the relief requested in this Petition is  
10 granted.  
11

12 17. Petitioner Hayes has a beneficial interest in ensuring, through this Petition, that  
13 Respondents are compelled to act in compliance with the California Constitution, in that Hayes  
14 (1) is a citizen seeking to procure enforcement of a public duty, and (2) Hayes is a resident of the  
15 City of Los Angeles whose current representative on the Council, Ed Reyes, will be eligible for  
16 re-election to a third term unless the relief requested in this Petition is granted.  
17

18 18. Petitioners have no plain, speedy, or adequate remedy at law and will suffer  
19 severe and irreparable injury if the Court does not issue a peremptory writ of mandate directing  
20 Respondents to cease and desist from any and all action to implement Measure R, and to take  
21 any action necessary to repeal from the LA Charter and LA Code any changes made in efforts to  
22 implement Measure R.  
23  
24


25  
26 WHEREFORE, Petitioners pray for relief as follows:  
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28

1 (1) For issuance of a peremptory writ of mandate directing Respondents to cease and  
 2 desist from any and all action to implement Measure R, and to take any action necessary to  
 3 repeal from the LA Charter and LA Code any changes made in efforts to implement Measure R;

4 (2) For an award of Petitioners' costs and reasonable attorneys' fees; and

5 (3) For such other relief as the Court deems necessary and proper.  
 6

7  
 8 DATED: December 11, 2006

9   
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17 *Attorney for Petitioners*  
 18 DAVID HERNANDEZ, TED HAYES  
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**VERIFICATION**

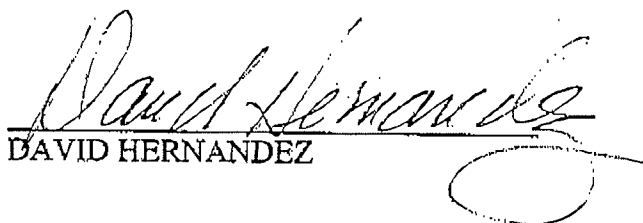
VERIFICATION

1  
2 I, David Hernandez, declare as follows:

3  
4 I am one of the Petitioners in the above-entitled action. I have read the foregoing  
5 Verified Petition for Writ of Mandate and know the contents thereof. The same is true of my  
6 own knowledge, except as to matters alleged therein on information and belief, and as to those  
7 matters I believe it to be true.

8  
9 I declare under penalty of perjury under the laws of the State of California that the  
10 foregoing is true and correct.

11  
12 DATE: December 10, 2006

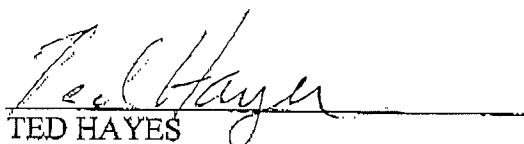
  
DAVID HERNANDEZ

13  
14  
15 I, Ted Hayes, declare as follows:

16  
17 I am one of the Petitioners in the above-entitled action. I have read the foregoing  
18 Verified Petition for Writ of Mandate and know the contents thereof. The same is true of my  
19 own knowledge, except as to matters alleged therein on information and belief, and as to those  
20 matters I believe it to be true.

21  
22 I declare under penalty of perjury under the laws of the State of California that the  
23 foregoing is true and correct.

24  
25 DATE: December 10, 2006

  
TED HAYES