

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

JOHN RANDO and MARIANO A. RODAS,

Petitioners and Appellants,

VS.

KAMALA HARRIS, individually and in her official
capacity as Attorney General;

Respondent and Appellee,

FRANK QUINTERO, individually and in his official
capacity as Glendale City Councilmember; CITY OF
GLENDALE,

Real Parties in Interest.

Case No. _____

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Los Angeles County Superior Court, Case NO. BS145904
The Honorable James C. Chalfant, Judge

**DECLARATION IN SUPPORT OF APPELLANTS'
MOTION FOR CALENDAR PREFERENCE**

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DECLARATION OF SEAN A. BRADY

I, Sean A. Brady, declare as follows:

1. I am an attorney licensed to practice law before the courts of the State of California. I am an associate attorney of the law firm Michel & Associates, P.C., attorneys of record in this action for Appellants, John Rando and Mariano Rodas. I have personal knowledge of the facts set forth herein and, if called and sworn as a witness, could testify and would testify competently thereto.

2. On April 2, 2013, the City of Glendale held its municipal election to elect among others, a City Treasurer and three City Councilmembers.

3. Three councilmembers, including Laura Friedman, Ara Najarian, and Defendant Quintero had terms that expired in April 2013, leaving three councilmember positions for which the voters could cast their ballot. Laura Friedman and Ara Najarian both ran for re-election in April 2013. Defendant Quintero did not declare candidacy for re-election.

4. On or about April 11, 2013, the City of Glendale finalized the election results, and Ara Najarian, Laura Friedman, and Zareh Sinanyan won the election to fill the three available councilmember positions.

5. On April 15, 2013, the new councilmembers took office, and Defendant Quintero's term as city councilmember effectively terminated.

6. Rafi Manoukian, a sitting Glendale city councilmember at the time of the April 2, 2013 election, ran in the election for the position of City Treasurer and won.

7. Because Mr. Manoukian's council term was not set to expire this year, his assuming the position of Treasurer on or about April 15, 2013, left a vacancy on the City Council

that was not filled by the election.

8. Per Article VI, Section 13(b) of the Glendale City Charter, any vacancy on the city council must be filled by appointment by the majority vote of the remaining members of the council. If any appointment to the council is not made within 30 working days of the vacancy, then the council must call for a special election within 120 days to fill the vacant seat.

9. At the city council meeting on April 16, 2013, the councilmembers discussed how to determine who to appoint to fill the vacant seat. Quintero's name was raised as a possible candidate. Councilmember Najarian raised his concern before the council and the Glendale City Attorney, Michael J. Garcia, that Article VI, Section 12 of the Glendale City Charter might preclude appointment of Defendant Quintero because two years had not yet lapsed since the ending of Defendant Quintero's former term on April 15, 2013.

10. Article VI, Section 12 was amended by Glendale voters in the City's 1982 election to reword its original language and to add the following completely new sentence:

No former councilmember shall hold any compensated city office or city employment until two (2) years after leaving the office of councilmember. (1982.)

11. On April 23, 2013, eight days after he had left office, the City Council appointed Quintero to fill the vacancy. His appointed term is set to expire on June 26, 2014.

12. On May 23, 2013, in compliance with California Code of Civil Procedure section 803, Appellants filed an application with the Attorney General for leave to sue in quo warranto, seeking to remove Quintero from office because they believe his appointment violated Section 12.

13. On June 7, 2013, the City and Quintero filed an opposition to Petitioners'

application.

14. On June 17, 2013, Petitioners filed a Reply to the City's opposition.

15. The Attorney General did not rule on Petitioners' application for leave to sue in quo warranto until October 25, 2013. She issued an opinion denying Petitioners' application because, in the Attorney General's view, it is not in the public interest to "burden" the courts with the question of whether Quintero's appointment violates Section 12.

16. On November 13, 2013 Appellants filed an ex parte application for an alternative writ and an order to show cause why a peremptory writ of mandate should not issue in the Superior Court.

17. The Superior Court granted Appellants application and set a briefing and hearing schedule.

18. On December 20, 2013 Respondents and Real Parties in Interest filed their opposition papers to the writ petition.

19. On December 31, 2013 Appellants filed their reply.

20. On January 7, 2014 all parties participated in a hearing before Superior Court Judge James Chalfant.

21. On January 15, 2014 Judge Chalfant issued an order and opinion denying Appellants' petition for a writ of mandate.


22. Appellants received Judge Chalfant's order in the mail on January 20, 2014.

23. Appellants filed a notice of appeal on January 22, 2014.

24. Through email correspondence on July 27, 2013, Susan Smith, attorney on file for Respondent and Andrew Rawcliffe, attorney on file for Real Parties in Interest, have

indicated to me that they oppose any expedited briefing schedule, but, at this time, do not oppose Appellants' request for calendar preference.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 29th day of January, 2014 at Long Beach, California.



Sean A. Brady
Declarant

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

I, Claudia Ayala, am employed in the City of Long Beach, Los Angeles County, California. I am over the age eighteen (18) years and am not a party to the within action. My business address is 180 East Ocean Blvd., Suite 200 Long Beach, CA 90802.

On January 29, 2014, I served the foregoing document(s) described as

**DECLARATION IN SUPPORT OF APPELLANTS'
MOTION FOR CALENDAR PREFERENCE**

on the interested parties in this action by placing

☐ the original

☒ a true and correct copy

thereof enclosed in sealed envelope(s) addressed as follows:


“SEE SERVICE LIST”

X (BY MAIL) As follows: I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under the practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date is more than one day after date of deposit for mailing an affidavit.

Executed on January 29, 2014, at Long Beach, California.

X (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 29, 2014, at Long Beach, California.



CLAUDIA AYALA

SERVICE LIST

JOHN RANDO ET AL. v. KAMALA HARRIS ET AL.

Mark R. Beclomgton, Supervising Deputy Attorney General Susan K. Smith, Deputy Attorney General Office of the Attorney General 300 S. Spring Street, Suite 1702 Los Angeles, CA 90013 Email: Susan.Smith@doj.ca.gov Attorney for Defendants	Attorney for Defendant Kamala Harris
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Andrew C. Rawcliffe Deputy City Attorney, Litigation Glendale city Attorney's Office 613 E. Broadway, Suite 220 Glendale, CA 91206 Email: ARawcliffe@ci.glendale.ca.us Attorneys for Defendants	Attorney for Defendant/Real Party in Interest Frank Quintero and the City of Glendale
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Honorable James C. Chalfant Los Angeles Superior Court Stanley Mosk Courthouse 111 North Hill Street Los Angeles, CA 90012 Department 85	Judge
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Clerk of the Court Los Angeles Superior Court Stanley Mosk Courthouse 111 North Hill Street Los Angeles, CA 90012	Clerk
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