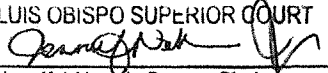


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**FILED**

**JUN 20 2018**

SAN LUIS OBISPO SUPERIOR COURT  
BY:   
Jennifer Novick, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN LUIS OBISPO

LYNN COMPTON, as an individual,

Case No.: 18CV-0358

Plaintiff,

**RULING ON EX PARTE  
APPLICATION FOR TEMPORARY  
RESTRAINING ORDER**

v.

TOMMY GONG, in his capacity as Clerk-Recorder and Registrar of Voters for San Luis Obispo County, California,

Defendant.

On June 15, 2018, Lynn Compton (“Petitioner”), a candidate in the 4<sup>th</sup> Supervisorial District election, filed an ex parte application seeking a temporary restraining order, prohibiting the San Luis Obispo County Clerk-Recorder, Tommy Gong (“Respondent”), from allowing signature correction for vote-by-mail (“VBM”) ballots after the deadline set forth in Elections Code section 3019, subdivision (f).<sup>1</sup> (Ex Parte App., p. 1, ll. 22-24.)

Under section 3019, subdivision (f), voters who failed to sign the VBM identification envelope as required by section 3011, are given an opportunity to correct

<sup>1</sup> All statutory references are to the Elections Code unless indicated otherwise.

1 the issue “before 5 p.m. on the eighth day after the election.” Here, that deadline was 5  
2 p.m. on June 13, 2018.

3 The issue before Court, however, is not correction of unsigned identification  
4 envelopes but signatures on the identification envelope that do not match the signature  
5 appearing on the voter’s registration record. Those circumstances are addressed by  
6 section 3019, subdivision (c)(2).<sup>2</sup>

7 At the initial hearing on June 18, 2018, Petitioner confirmed that she is not relying  
8 on subdivision (c)(2) for purposes of her ex parte application.<sup>3</sup> Rather, Petitioner has  
9 argued that the Court should, in effect, alter the plain language of section 3019(f) to  
10 include mismatched ballot signatures. Thus, Petitioner asks the Court to apply the eight-  
11 day deadline in section 3019, subdivision (f) to mismatched signatures by somehow  
12 harmonizing section 3019 with sections 3009, 3015, 3017, and 3020. The latter three  
13 sections (i.e., 3015, 3017, and 3020) require generally that VBM voters return their VBM  
14 ballots, or vote at their designated polling place, by the close of polls on election day.<sup>4</sup>  
15 Section 3009, on the other hand, concerns VBM ballot applications.

16 Petitioner’s cited authority does not support its request to apply the deadline in  
17 section 3019, subdivision (f) to mismatched signatures. None of the cited statutory  
18 provisions address correction of mismatched signatures; and subdivision (f) of section  
19 3019 is expressly limited to unsigned identification envelopes. Moreover, subdivision (f)  
20 of section 3019 itself recognizes the distinction between unsigned identification  
21 envelopes and those on which the signature on the identification envelope does not match

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23 <sup>2</sup> Section 3019, subdivision (c)(2) requires that should the elections official determine that the signatures  
24 do not match, then “the identification envelope shall not be opened and the ballot shall not be  
counted.”

25 <sup>3</sup> The constitutionality of section 3019, subdivision (c)(2) is currently the subject of litigation in the  
26 California First District Court of Appeal (Case No. A154337), and is likewise under review by the  
27 state’s legislative branch (Sen. Bill No. 759; 2017-2018 Reg. Sess.). Petitioner acknowledged the  
“problematic” nature of section 3019, subdivision (c)(2) at the hearing.


28 <sup>4</sup> Section 3020, subdivision (b) allows eligible VBM ballots to be deemed timely cast if received no later  
than three days after the election under specified circumstances (e.g., if the ballot is postmarked on or  
before election day).

1 the "Unsigned Ballot Statement." (§ 3019, subd. (f)(1)(B)(ii).)<sup>5</sup> The Court, therefore,  
2 declines to rewrite the statute as requested by Petitioner. The argument is especially  
3 unavailing in that section 3019(c)(2), a statute under attack, directly addresses  
4 mismatched ballot signatures.

5 Petitioner argues, in the alternative, that should the Court view a potential rewrite  
6 of section 3019, subdivision (f) beyond its powers, then it should require that the VBM  
7 ballots be received by the close of election day as required under sections 3009, 3015,  
8 3017, and 3020; and that any corrected VBM ballots corrected after election day be  
9 deemed untimely. Petitioner offers no authority for this latter proposition, and there is no  
10 evidence offered that the VBM ballots at issue were not timely received in the first  
11 instance.

12 Petitioner's ex parte application is denied. The temporary restraining order signed  
13 by the Court on June 19, 2018 is hereby dissolved.

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16 DATED: June 20, 2018

  
BARRY T. LA BARBERA  
Assigned Judge of the Superior Court

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28 <sup>5</sup> "If the elections official determines that the signatures do not compare, the identification envelope shall not be opened and the ballot shall not be counted." (§3019, subd. (f)(1)(B)(ii).)

**STATE OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO  
CERTIFICATE OF MAILING**

Lynn Compton vs. Tommy Gong

18CV-0358

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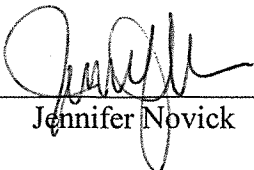
I, Jennifer Novick, Deputy Clerk of the Superior Court of the State of California, County of San Luis Obispo, do hereby certify that I am over the age of 18 and not a party to this action. Under penalty of perjury, I hereby certify that on **06/20/2018** I deposited in the United States mail at San Luis Obispo, California, first class postage prepaid, in a sealed envelope, a copy of the attached **Ruling on Ex Parte Application for Temporary Restraining Order**. The foregoing document was addressed to each of the above parties.

OR

If counsel has a pickup box in the Courthouse a copy was placed in said pickup box this date.

Dated: 6/20/2018

Michael Powell, Clerk of the Court

By:  Deputy Clerk  
Jennifer Novick