

1 HON. JENNIFER V. DOLLARD
2 JUDGE OF THE SUPERIOR COURT
3 Courtroom 18
4 3055 Cleveland Avenue
5 Santa Rosa, CA 95403
6 (707) 521-6723

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA

NOV 05 2020

BY 

Deputy Clerk

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

9 MARK ESSICK, SONOMA COUNTY
10 SHERIFF

11 Plaintiff,

12 vs.

13 SONOMA COUNTY BOARD OF
14 SUPERVISORS,

15 Defendants.

Case No. SCV-266914

**RULING AFTER HEARING ON
SUBMITTED MATTER –
REQUEST FOR WRIT OF MANDATE**

16 Respondent's unopposed Request for Judicial Notice is GRANTED. Petitioner's
17 Writ of Mandate is DENIED, without prejudice, on the grounds the Writ is premature
18 and Petitioner fails to meet his burden to show the requested relief is warranted.
19 (*Vallejo Police Officers Assn. v. City of Vallejo* (2017) 15 Cal.App.5th 601, 611; see
20 also, *Rivero v. Lake County Board of Supervisors* (2014) 232 Cal.App.4th 1187, 1194-
21 1195; *Lockyer v. City and County of San Francisco* (2004) 33 Cal.4th 1055, 1121;
22 *Santa Clara County Counsel Attys. Assn. v. Woodside* (1994) 7 Cal.4th 525, 539-
23 540].)

24 Challenging the proposed initiative prior to its enactment does not arise from
25 Petitioner's "performance of his duties" as Sheriff such that outside legal counsel
26 would be mandatory under Government Code section 31000.6. (See, *Rivero, supra*,
27 232 Cal.App.4th 1187, 1194-1195 ["in deciding whether the board of supervisors had a
28 duty to employ independent counsel for the [sheriff or] assessor under subdivision (a)


1 of section 31000.6, the court would have to decide whether the purpose for which the
2 [sheriff or] assessor seeks independent counsel is within the scope of his duties,
3 because the duty arises only when that condition is satisfied.”]; see also, *Strong v.*
4 *Sutter County Board of Supervisors* (2010) 188 Cal.App.4th 482, 492 [“Necessarily, in
5 deciding whether the board of supervisors had a duty to employ independent counsel
6 for the assessor under subdivision (a) of section 31000.6, the court would have to
7 decide whether the purpose for which the assessor seeks independent counsel is
8 within the scope of his duties...”].) Petitioner thus has not met his burden of proof to
9 show Respondent has a “clear, present [or] ministerial duty” to appoint counsel and he
10 has not met his burden to show a “clear, present and beneficial right” to
11 counsel. (*Lockyer, supra*, 33 Cal.4th at 1121, quoting *Santa Clara County Counsel*
12 *Attys. Assn. v. Woodside* (1994) 7 Cal.4th 525, 539-540.)

13 Petitioner argues that the initiative might “possibly” interfere with his
14 investigative functions and that several provisions “appear likely” to have a detrimental
15 effect on his ability to fulfill his duties. (Motion at 6:13-19 and 9:8-14.) This is not
16 sufficient for the Court to grant the writ. If and when the initiative becomes law; and if
17 and when that law interferes with Petitioner’s constitutionally and statutorily designated
18 investigative functions, Petitioner may refile the writ at that time. At this time however,
19 the writ is denied.

20 Respondent’s counsel shall submit a written order to the Court that is consistent
21 with this ruling and in compliance with Rule of Court 3.1312.

22
23 IT IS SO ORDERED.

24
25 DATED: November 5, 2020

26 
27 _____
28 JENNIFER V. DOLLARD
Judge of the Superior Court

PROOF OF SERVICE BY MAIL

I certify that I am an employee of the Superior Court of California, County of Sonoma, and that my business address is 600 Administration Drive, Room 107-J, Santa Rosa, California, 95403; that I am not a party to this case; that I am over the age of 18 years; that I am readily familiar with this office's practice for collection and processing of correspondence for mailing with the United States Postal Service; and that on the date shown below I placed a true copy of the attached RULING AFTER HEARING ON SUBMITTED MATTER - REQUEST FOR WRIT OF MANDATE in an envelope, sealed and addressed as shown below, for collection and mailing at Santa Rosa, California, first class, postage fully prepaid, following ordinary business practices.

Date: November 05, 2020

Arlene Junior
Clerk of the Court

By: *Erik Pede*
Erik Pede, Deputy Clerk

-ADDRESSEES-

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