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Attorneys for Petitioners
LEANNA LOUIE and LEANNA LOUIE
FOR D4 SUPERVISOR 2022

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

LEANNA LOUIE AND LEANNA LOUIE FOR
D4 SUPERVISOR 2022,

Petitioners,

vs.

JOHN ARNTZ, Director of the San Francisco
Department of Elections; CITY AND COUNTY
OF SAN FRANCISCO; and DOES 1-10,

Respondents.

Case No.
[Unlimited Jurisdiction]

**EX PARTE APPLICATION FOR
ORDER SHORTENING TIME
FOR HEARING ON PETITION
FOR WRIT OF MANDATE;
MEMORANDUM OF POINTS &
AUTHORITIES IN SUPPORT
THEREOF**

Date: August 31, 2022
Time: 11:00 a.m.
Dept: 302 (via CourtCall)

**(California Elections Code section
13314; California Code of Civil
Procedure sections 1085 et seq.)**

CALENDAR PREFERENCE

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REQUIRED BY STATUTE
(ELEC. CODE § 13314(a)(3))

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1 causing irreparable harm to Petitioner and the voters in connection with the important
2 upcoming November 8, 2022 election. Petitioner therefore prays that this Court will grant
3 the ex parte application and set the above-requested briefing and hearing schedule so that
4 this matter may be resolved on or around the September 9, 2022, ballot printing deadline.

5 **Ex Parte Notice** has been provided to all parties, as set forth in the attached
6 Declaration of Stanley Shen.

7 As required by California Rule of Court 3.1202(a), counsel for the parties are:

8 **Petitioner's counsel** is:

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24 **Respondent's counsel** is:

25 **San Francisco City Attorney's Office**
26 Andrew Shen, State Bar No. 232499
27 Andrea Ruiz-Esquide, State Bar No. 233731
28 1 Carlton B Goodlett Pl., Ste. 234
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1 **MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF**
2 **PETITIONER'S EX PARTE APPLICATION**

3 **FACTUAL BACKGROUND**

4 On June 3, 2022, Petitioner Leanna Louie ("Louie") appeared at and personally filed
5 nomination papers at the San Francisco Department of Elections ("DOE") announcing her
6 intention to run for elective office for the Board of Supervisors, District Four Supervisorial
7 Seat and personally filed the required paperwork, took the oath of office, and tendered the
8 \$500 filing fee.

9 Importantly, on that same day, June 3, 2022, a DOE staff employee reviewed,
10 accepted, and *certified* Leanna Louie's candidate nominations forms. The acceptance is
11 demarked by a time stamp "1:44pm" affixed to the candidacy nomination papers to which
12 the staff person additionally affixed his handwritten signature with the date of "June 3,
13 2022." The DOE staffer attested to the fact that Leanna Louie met all legal eligibility
14 requirements to seek elective office as described on the papers submitted June 3, 2022,
15 including residency.

16 On June 3, 2022, the DOE unequivocally approved and certified Leanna Louie's
17 nomination papers despite the fact that Leanna Louie had only been a registered voter in
18 District Four for 27 days – 3 days short of being a 30-day registered voter in the district- as
19 she registered to vote in District Four on May 7, 2022.

20 To be certified to run for elective office, a candidate must reside in the Supervisorial
21 District for at least 30 days prior to filing nomination papers. The nomination forms do not
22 require a candidate to be a registered voter in the district, but rather a resident of the
23 district.

24 At no time from June 3, 2022 to June 14, 2022 did the DOE notify Ms. Louie of any
25 error that it had made in certifying her candidacy nor did the DOE tell Ms. Louie her that
26 her nomination papers were defective during the cure period (prior to June 14 2022) so that
27 Ms. Louie could simply refile the paperwork on or after June 6, 2022 so that she would
28 have met the legal presumption for residency - here 30 days as a registered voter in District

1 Four.

2 In this case, Louie's primary residence was and still is located at a home on 35th
3 Avenue and she has resided at that home since April 15, 2022. Louie's bed, personal
4 possessions, clothes, computer, work related items, toiletries, and her move completed mid-
5 April.

6 On Friday, June 14, 2022 the "nomination" period closed and thereafter Ms. Louie
7 was barred from altering, amending or curing any defects with her nomination's paperwork.

8 On Saturday June 15, 2022, Louie's bank, ("Chase Bank") posted that San Francisco
9 Department of Elections had indeed cashed the \$500.00 filing fee check that Louie had
10 tendered to the San Francisco Department of Elections in.

11 With regard to *Public Examinations and Challenges* to a candidate's eligibility to
12 run for public office for the Board Supervisors, California Elections Code §§13313, 13314
13 and SFMEC §590(a) provide that

14 **All nomination** documents are available for public review **during the 10-**
15 **calendar-day period starting at noon the day after the nomination**
16 **period ends.** During this period, any voter of the jurisdiction in which the
17 election is being held, **or the Department**, may challenge a candidate's
18 legal name, qualification statement, ballot designation, or a translated or
19 transliterated Chinese name requested by a candidate. Chinese
20 transliterations of candidates' names that are provided by the Department's
21 translator are also available for a 10-day examination period, which starts at
22 noon on the 77th day before the election.

23 **Any challenges must be submitted to the Department in writing during**
24 **the 10-day public examination period.** The challenge must demonstrate
25 that the material is inconsistent with election law requirements and that
26 action by the court to correct or remove the material will not substantially
27 interfere with the conduct of the election. Following the close of the public
28 examination period for each category of material, the Department may
proceed with publication of that materials.

24 The 10 day challenge period began at noon on Saturday, June 15, 2022 and closed
25 on June 27, 2022 at noon. No written challenges were submitted by the DOE or any voter
26 during the key challenge period. And at no time did the DOE inform Ms. Louie that it had
27 "erred" or improperly certified her papers when determining her eligibility.

28 Thereafter, Louie relied upon the June 3, 2022 certification and applied for public

1 funding for the campaign, raised funds, began expending campaign funds and dedicated
2 time to run for the San Francisco Board of Supervisors. Louie is the front runner
3 challenger who is positioned to unseat, incumbent District Four Supervisor Gordon Mar.
4 Mar opposed the Yes on H campaign and the recall of San Francisco District Attorney
5 Chesa Boudin while Leanna Louie was an outspoken advocate and community leader and
6 organizer who worked tirelessly for the Yes on H campaign.

7 San Francisco Municipal and Elections Code provides that a timely, written
8 challenge to Ms. Louie's qualifications for candidacy for the Board of Supervisors in San
9 Francisco District Four ran from June 15, 2022, to June 27, 2022 and all challenges to
10 Leanna Louie's qualifications to run for office needed to be filed in writing by either a
11 voter or the DOE during the June 15, 2022 to June 27, 2022 time period. Both the
12 California Elections Code and the San Francisco Municipal Code have a sequence of set
13 forth timelines pertaining to the candidate nomination and qualification and review process.

14 In 2013, San Francisco changed and advanced the local candidate eligibility review
15 period deadline. The review period was moved from the month of August to the month of
16 June - approximately 60 days earlier. Prior to the 2013 change, the deadline for candidates
17 to submit nominations petitions was 88 days before election day or ("e- 88.") That date
18 was August 2022. That deadline still applies to candidates for all local elective offices,
19 *except Mayor and Supervisors*. Now, for Mayor and Board of Supervisors, the date is now
20 -e minus 147. MEC 205(a)

21 Whereas the period to challenge was previously after the filing deadline since the
22 filing deadline is now June 2022, then the dates to challenge are now late August. No
23 timely written challenges to Ms. Louie's candidacy were filed by any voter or by the
24 Department of Elections as allowed under the Municipal Elections Code during the
25 appropriate, applicable time period.

26 The DOE did not inform Ms. Louie *of any defect* during or prior to the cure period
27 as required by Municipal Elections Code Section MEC 240: *Defective Filings*.

28 On Monday, August 22, 2022, District Four candidate Leanna Louie voluntarily

1 appeared at the Office of the San Francisco Attorney at Fox Plaza for an interview that was
2 conducted by Shawn Kelly an Investigator with the San Francisco City Attorney's Office
3 and Deputy City Attorney Kesslie Stewart for the purpose of clarifying questions that had
4 been raised in a series of "news" articles by an online "news" source, Mission Local that
5 had supported former San Francisco DA Chesa Boudin and opposed the Yes on H Recall
6 Campaign. Five days elapsed without any word or additional investigation from the San
7 Francisco City Attorney. Notwithstanding the "findings" Director Arntz had no authority
8 to remove Ms. Louie and had a ministerial duty to follow the mandates of the SF Municipal
9 Elections Code.

10 On Friday, August 26, 2022, at approximately 2:30pm the San Francisco City
11 Attorney released a San Francisco City Attorney Opinion stating that the Office of the San
12 Francisco City Attorney, not Director Arntz, found that Leanna Louie had not provided
13 enough evidence to satisfy the Office of the City Attorney that Ms. Louie had met by a
14 "preponderance of the evidence" to establish "domicile" / residency requirements to be on
15 the San Francisco November 8, 2022, Consolidated General Election Ballot.

16 The City Attorney linked evidence, including attorney to attorney correspondence,
17 the transcript of the interview, the 12 sworn witness declarations/statements photos and all
18 documentary evidence provided by Louie in the short 72 business hour window she was
19 given to prepare for the City Attorney interrogation.

20 The City Attorney opinion was factually inaccurate and mischaracterized much of
21 the evidence, including the interview testimony. The findings are not consistent with the
22 evidence presented.

23 On Friday, August 26, 2022, at approximately 3:00pm, John Arntz, ("Arntz" and
24 "the Director") Director of the DOE informed Ms. Louie by email that he, acting in his
25 capacity as Director of the Department of Elections had removed Ms. Louie's name San
26 Francisco November 8, 2022, Consolidated General Election Ballot because the San
27 Francisco City Attorney's Office had determined that Louie failed to provide enough
28 evidence to meet the "domicile" requirements by a "preponderance of the evidence."

1 Louie provided 11 statements and sworn declarations from her landlord, witnesses
2 and neighbors attesting to the fact that Louie resided in District Four, and Louie provided
3 countless documents, including bank and credit card statements, moving and furniture
4 receipts, photographic evidence of her bedroom and the interior of her District Four home
5 that she shares with her landlord, and countless other documents demonstrating that she had
6 both a “physical presence” and intention to remain at the home that she fully moved into on
7 or about April 15, 2022.

8 Therefore, Louie **was in fact domiciled** in District Four in the immediate 30 days
9 prior to June 3, 2022 - the day that she filed her papers for candidacy for elected office.
10 The record shows that Ms. Louie had no permanent residential/physical presence at 94
11 Bridgeview in the crucial 30 day period prior to June 3, 2022 and at no time established a
12 physical overnight or permanent presence at a residence she co-owns with multiple parties
13 at 414 Ramsell Avenue in the crucial 30 day window prior to June 3, 2022.

14 The factual determinations made by Investigator Shawn Kelly, not the Director of
15 Elections himself, are not supported in the record. This determination and removal was in
16 error and made outside the challenge time period and **could not be made absent a court**
17 **order as required under the law.**

18 As of the date of this filing, neither the San Francisco DOE nor the City and County
19 of San Francisco have filed an action in San Francisco Superior Court to seek leave of the
20 Court to remove Leanna Louie from the ballot.

21 Thus, excluding Leanna Louie by “declaratory fiat” absent court order is an
22 unlawful, unauthorized ultra vires act that exceeds the scope of Director Arntz’s authority
23 and also constitutes a prejudicial abuse of discretion.

24 Excluding Leanna Louie would also: (i) disenfranchise Louie and thousands of
25 Louie’s supporters (ii) infringe upon Louie’s constitutional rights and deny Louie due
26 process.

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1 printing and distribution of official election materials as required by law. . . ." Further,
2 under California Elections Code section 13314(a)(3), any writ to correct "errors or
3 omissions" in the printing of a ballot "shall have priority over all other civil matters."
4

5 Petitioner alleges that Leanna Louie will be unlawfully excluded and omitted from
6 appearing in the official ballot for the November 8, 2022, election and will soon be
7 distributed to the public if this Court does not intervene. The Court must therefore consider
8 the Verified Petition on an expedited basis. Courts routinely grant ex parte applications for
9 orders shortening time and set expedited briefing and hearing schedules in election-related
10 matters. Petitioner also has good cause for seeking ex parte relief pursuant to California
11 Rules of Court 3.1200 et seq., because of the imminent deadline for printing ballots on or
12 about September 9. Given this impending deadline, Petitioner has no choice but to forego
13 normal notice procedures and seek ex parte relief in order to obtain an expedited briefing
14 schedule and hearing date to prevent an illegal and invalid ballot measure from being
15 included on the official ballot and distributed to the voters of San Francisco.
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19 Because ballots must be printed by the City using taxpayer dollars well in advance of
20 the actual election date, it is no surprise that the law explicitly instructs courts to give
21 priority to lawsuits alleging that errors or omissions are about to occur in the election
22 process. Petitioner has the right to have the Court consider the matter in an expedited
23 manner by complying with the provision in the Elections Code giving priority to election-
24 related matters, setting a briefing and hearing schedule, and issuing a ruling on or before
25 September 9, 2022.
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1 3. Petitioner and All Voters in San Francisco Will Face Irreparable Harm if
2 the Petition for Writ of Mandate is Heard Under Regularly Noticed
3 Procedures.

4 Issuance of the requested writ is necessary to ensure that Leanna Louie appears on
5 the November 8, 2022, San Francisco Consolidated Ballot and to prevent irreparable harm
6 to the voters of San Francisco, to prevent an unlawful alienation and exclusion from the
7 November 8, 2022, ballot, and to prevent the infringement of Ms. Louie's rights under
8 California constitutional and statutory law. If ex parte relief is not granted, Leanna Louie
9 will be excluded from the ballot, and the public's trust in the electoral process will be
10 wholly eroded.

12 PROPOSED BRIEFING & HEARING SCHEDULE

13
14 To avoid irreparable harm to Petitioner and the voters of San Francisco, Petitioner
15 proposes the following briefing and hearing schedule:

- 16 • Friday, September 2, 2022: Petitioner to file Memorandum Points &
17 Authorities in Support of Verified Petition for Writ of Mandate.
- 18 • Monday, September 5, 2022: Respondent to file opposition papers.
- 19 • Wednesday, September 7, 2021: Petitioner to file reply brief.
- 20 • Thursday, September 8, 2022: Court hearing and decision on merits of
21 Verified Petition for Writ of Mandate and Complaint for Relief.
- 22 Verified Petition for Writ of Mandate and Complaint for Relief.

23
24 While truncated, this schedule is the only available remedy to prevent the illegal and
25 wholly unlawful exclusion of Leanna Louie from the ballot appearing on the November 8,
26 2022, ballot.

1 CONCLUSION

2 Based on the foregoing, Petitioner respectfully requests that this Court grant an Order
3 Shortening Time to hear Petitioner's Verified Petition for Writ of Mandate, so that the Court
4 may issue a ruling on or before September 9, 2022, and that the Court adopt an expedited
5 briefing schedule allowing for all parties to have the opportunity to be heard before the
6 Court rules on this matter.
7

8
9 Respectfully submitted,

10 Dated: August 29, 2022

STANLEY SHEN

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12
13 By 

14 CHRISTINE A. LINNENBACH

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16 By /s/ Christine A. Linnenbach
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