

COURT CASES OF INTEREST - 1998

SUBJECT (check the one that applies)

- Elections
- Ballot Designations
- Candidate Statements
- Nomination Petitions
- Recall Petitions
- Initiative/Referendum Petitions
- Electioneering
- Residency
- Voter Fraud
- Campaign Disclosure
- Sample Ballot
- Other _____

COUNTY SAN DIEGO

WHO SUED WHOM JAMISON V. HAAS & HARTMAN V. HAAS
(Names of parties involved in suit)

(Names of parties involved in suit)

COURT SUPERIOR

CONTACT FOR MORE INFORMATION:

MIKEL HAAS 694-3401 694-8888
(Name) (Phone) (FAX)

DESCRIBE CASE (Attach additional pages if necessary):

JAMISON, CANDIDATE FOR COUNTY TREASURER-TAX COLLECTOR,
SOUGHT WRIT TO DELETE PORTIONS OF HER OPPONENT'S (HARTMAN)
CANDIDATE STATEMENT, CITING DEAN V. SUPERIOR COURT. HARTMAN FILED
CROSS COMPLAINT, ALLEGING JAMISON'S CANDIDATE STATEMENT CONTAINED
LANGUAGE REPRESENTING A "PERSONAL ATTACK" ON HIS QUALIFICATIONS.
HARTMAN ALSO ALLEGED THAT JAMISON'S BALLOT DESIGNATION
WAS FALSE AND MISLEADING.

DESCRIBE DECISION/AGREEMENT REACHED:

JAMISON PREVAILED ON
ALL POINTS. OFFENSIVE LANGUAGE WAS ORDERED
STRUCK FROM HARTMAN'S STATEMENT PER DEAN V. SUPERIOR COURT.
HARTMAN'S CROSS COMPLAINT WAS DENIED WITHOUT HEARING. SEE ATTACHED
COURT ORDER & NEWS ARTICLE.

ELECTION OFFICIAL OPINION/IMPACT OF DECISION:

CONFIRMED VALIDITY OF
DEAN V. SUPERIOR COURT. HARTMAN WAS PROVIDED COPY OF DEAN CASE
BEFORE FILING HIS COMPLAINT. HE CHOSE TO PROCEED & ATTEMPTED TO
PURGE BLAME ON REGISTRAR FOR, I GUESS, NOT DOING MORE TO SAVE HIM
FROM HIMSELF. JUDGE REJECTED THIS POSITION AND NOTABLY REFUSED TO

ATTACHMENT: YES NO I WILL PROVIDE UPON REQUEST

ALSO HARTMAN TO PROVIDE STATEMENT TO REPAIR THE
DELETED PARAGRAPHS,
because it would "serve to remedy the
violation of the Election Code."

County Candidate

Forced To Remove

Language From

Election Material

By KIM PETERSON
San Diego Daily Transcript

County treasurer/fax collector candidate Bart Hartman must delete nearly four paragraphs in his statement of qualifications for the November election, a Superior Court judge ruled Thursday.

Judge David J. Daniels said Hartman's statement violates portions of the Elections Code that prohibits a candidate from referring to an opponent's qualifications in his or her own ballot statement.

Hartman, currently the county's assistant treasurer/fax collector, mentioned opponent Conny Jamison four times in his statement, which was four times too many, Daniels said. He did not require that Jamison, now San Diego's city treasurer, make any changes to her statement.

Hartman and Jamison were in court Thursday, each arguing they were unfairly and illegally referred in their opponent's statement. At times, the debate seemed almost inconsequential, but the two candidates have much at stake in their ballot statements.

Neither has the money to run a huge, countywide campaign before the Nov. 3 election. Voters probably won't hear much about them from television and radio commercials or newspaper advertisements. The race very likely could be decided based on the candidate's ballot statements alone.

According to a lawsuit filed by Jamison, Hartman should not have made any references to her in his statement.

Hartman wrote that Jamison has no experience in property tax collections, and the city transferred her parking fine responsibilities to her transportation division. The county outperforms the city in treasury earnings, he added, resulting in millions of dollars Jamison did not earn for the city.

Finally, Hartman stated Jamison was investigated by the "city district attorney" regarding conflict of interest concerns with a local bank.

According to Jamison's complaint, the Fourth District Court of Appeal addressed the exact issue in an opinion issued March 1998. In *Deans v. Superior Court*, the court ruled a candidate's statement of qualifications can only discuss that person's name, age, occupation, education and qualifications.

"Jamison simply seeks to eliminate from Hartman's statement those portions of the four paragraphs that are clearly discussions of her, having nothing to do with Hartman's qualifications," according to the complaint, written by attorney Robert O'Hille.

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SAN DIEGO DAILY TRANSCRIPT

County Candidate

Continued From Page 1A

Daniels ruled that Hartman must completely delete the paragraphs referring to Jamison's conflict of interest concerns and the transfer of parking fine responsibilities within the city.

Hartman also must delete the reference to the millions of potential dollars Jamison didn't earn for the city and the assertion that Jamison had no experience collecting property tax.

As if that isn't bad enough, Hartman cannot go back and replace the deleted words, Daniels ruled. "Such acts would serve to reward the violation of the Elections Code and would give Hartman an unfair advantage over his opponent," Daniels wrote.

Hartman's attorney, Alfred Rava, filed a cross complaint alleging that Jamison made a personal attack on Hartman in her statement, which read, "Although San Diego County didn't declare bankruptcy in 1994 as did Orange

County, it did suffer — and continues to suffer — huge investment losses because of poor investment decisions."

The statement implies that Hartman was a part of those poor investment decisions, Rava said. "Jamison" is tacitly attacking Mr. Hartman by claiming that his department, where he is second in command, sent San Diego County down the road to bankruptcy," he said. "That's obviously an attack on Mr. Hartman."

As far as Hartman's statement goes, Rava said Hartman was informing the public about Jamison's part in a truthful way. Hartman focused on his own candidacy in the June primary election and was blindsided by Jamison's campaign tactics, he added.

"Bart Hartman was following the guidelines and history set forth by the local Registrar of Voters, who basically let anything in a candidate's statement," he said. "Mr. Hartman was a victim of Ms.

Jamison's personal attacks in the primary election and lost votes because of it."

But none of Jamison's ballot statements are directed at Hartman by name or by his position in the county, Daniels said. Thus, no violation of Deans exists, he added.

O'Hille, Jamison's attorney, said Hartman previously admitted he was aware of the Deans court decision but submitted his statement nonetheless.

"He knew it was wrong and he went ahead and did it anyway," O'Hille said. "Many of the allegations in the deleted material were false in any event, and my client remains troubled that he has been distributing these falsehoods in his campaign literature."

Hartman must make the necessary changes to his statement soon, the Registrar of Voters is scheduled to begin printing the ballots Sept. 16.

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SUPERIOR COURT OF CALIFORNIA

County of San Diego

DATE: SEPT. 3, 1998

DEPT. 49

REPORTER A: KATIE LANGGLE CSR# 8637

PRESENT HON. DAVID J. DANIELSEN

REPORTER B: ///

JUDGE

CSR#

CLERK: R. HENDERSON

REPORTER'S ADDRESS: P.O. BOX 128

BAILIFF: LORI SHANDS

SAN DIEGO, CA 92112-4104

723295

CONNY JAMISON,
Plaintiff and Petitioner

By: Robert P. Otille

v.
MIKEL HAAS, and in his official capacity as the Registrar of Voters for San Diego County; and DOES 1 through 50, inclusive,
Respondents and Defendants.

By: Timothy M. Barry

BART HARTMAN
Real Party in Interest

By: Alfred G. Rava

BART HARTMAN,
Cross-Complainant

By: Alfred G. Rava

v.
MIKEL HAAS, and in his official capacity as the Registrar of Voters for San Diego County; and DOES 1 through 50, inclusive.
Respondents and Defendants.

By: Timothy M. Barry

CONNY JAMISON,
Real Party in Interest

By: Robert P. Otille

RECORDING HARTMAN

SEP - 3 1998

By: R. HENDERSON, Deputy

Petitioners in these matters each seek a writ of mandate directed to the San Diego County Registrar of Voters ordering the deletion of improper language found in their respective opponent's Candidate's Statement of Qualifications. The matter was submitted for decision upon the papers after the Court's consideration of oral argument by the parties.

Elections Code Section 13307, as interpreted by the Court of Appeal in *Dann v. Superior Court* (1998) 62 Cal.App.4th 638, precludes a candidate from making comment in the ballot statement about the opposing candidate's qualifications. The Court determines that Bart Hartman's Candidate's Statement of Qualifications violates the Elections Code in paragraphs three through six inclusive by making negative comments about his opponent in the fall general election.

Paragraph 3 states: **"City of San Diego candidate -- NO EXPERIENCE -- property tax collections. Property Tax is 90% of County Treasurer/Tax-Collector workload/staffing."**

The following words must be deleted: **"City of San Diego candidate -- NO "**
The registrar may print the remainder of the paragraph, i.e., **"EXPERIENCE -- property tax collections. Property Tax is 90% of County Treasurer/Tax-Collector workload/staffing."**

Paragraph 4 states: **"Treasury Earnings: County outperforms City. (10 years)
Result: MILLIONS in revenue City of San Diego Treasurer could've earned, BUT DIDN'T."**

The following words must be deleted: **"Result: MILLIONS in revenue City of San Diego Treasurer could've earned, BUT DIDN'T."**
The registrar may print the remainder of the paragraph, i.e., **"Treasury Earnings: County outperforms City. (10 years)"**

Paragraph 5 states: **"City of San Diego Treasurer investigated by City/District Attorney -- "CONFLICT OF INTEREST" concerns with local bank."** The entire paragraph must be deleted by the registrar.

Paragraph 6 states: **"Following MISMANAGEMENT, City of San Diego Treasurer's parking fine responsibilities transferred to City Transportation department."** The entire paragraph must be deleted by the registrar.

Hartman requests leave to amend his ballot statement to replace the deleted words with new language and thereby bring his statement up to the allotted maximum word count. The Court has considered the exercise of its equitable powers to permit such action, but concludes that such acts would serve to reward the violation of the Elections Code and would give Hartman an unfair advantage over his opponent. The request is denied.

Turning to Hartman's request to strike portions of Ms. Jamison's ballot statement, his first attack is that Jamison's ballot designation is misleading under Elections Code Section 13107. Designated as the San Diego City Treasurer/Tax-Collector, Jamison is accused of inaccurately stating her job title and stating her job in a way which would mislead voters into thinking she was the incumbent San Diego County Treasurer/Tax-Collector. Based upon the evidence presented, the Court finds that Jamison accurately describes her job title and function in city government through her selected designation. The Court also determines that reasonably intelligent voters will discern that Ms. Jamison is not the incumbent and will not be misled into believing otherwise.


Next, Hartman alleges for the first time in his points and authorities that there are false and misleading statements. The evidence fails to establish the false or misleading nature of the

challenged statements. In addition, Hartman challenges certain assertions in the statement on the grounds of Elections Code Section 13307, as interpreted by the Court of Appeal in Dean v. Superior Court (1998) 62 Cal.App.4th 638. None of the referenced statements are directed at Hartman by name or by his position in county government. Thus, no violation of the standards enumerated in Dean exists.

Hartman's requests for relief are without merit and are denied. Jamison is entitled to the issuance of a writ of mandate forthwith directing the Registrar of Voters to delete the language as directed by the Court's decision. Jamison's counsel is directed to prepare the judgment and writ accordingly.

IT IS SO ORDERED.

September 3, 1998



David J. Danielson, Judge