

## **DECLARATION OF KIM ALEXANDER**

I, Kim Alexander, of Sacramento, California, declare as follows:

1. I am submitting this declaration in support of petitioners. I am over the age of 18 years and qualified to make this affidavit. I make this declaration based upon my personal knowledge, unless otherwise specified.

I have no direct or indirect interest in the outcome of this case for which I am offering observations, analysis, opinions or testimony.

2. I am the founder and president of the California Voter Foundation (CVF), a nonprofit, nonpartisan 501(c)(3) organization I re-founded in 1994. CVF's mission is to improve the voting process to better serve voters. Over the past 23 years, I have conducted numerous studies and authored or co-authored several oft-cited reports published by CVF, served on a number of voting-related task forces at the request of several California Secretaries of State, served as an invited speaker at numerous state and federal voting-related conferences and panels, and collaborated with lawmakers, election officials and advocates to improve the voting process in numerous ways.

3. Voting improvements promoted by CVF under my leadership include: 1) modernizing California campaign finance disclosure laws to require electronic filing and online disclosure of campaign and lobbying disclosure reports; 2) providing nonpartisan election information via the Internet to California voters; and 3) requiring that California ballots be

backed up with a voter-verified paper trail so that votes can be accurately audited and election results verified.

4. Following the 2012 election, I became aware of the increasing number of vote-by-mail ballots that were being cast by California voters but rejected by election officials. In my own county, Sacramento, I viewed thousands of ballots in the county election office that were rejected for a number of reasons, the most common being they were received too late to be counted, or there was a problem with the voter's signature.

5. In 2013, CVF sought and received a grant from The James Irvine Foundation to conduct a three-county study of California's vote-by-mail system to better understand the variations in how counties conduct the vote-by-mail process and the problems voters and counties experienced with that process, and to make recommendations on how to improve the vote-by-mail process so that fewer ballots from eligible voters are rejected. The three counties selected - Orange, Sacramento and Santa Cruz - varied in population size and geographic location. Election officials in each county provided me with data on past elections as well as the opportunity to visit their offices, observe vote-by-mail ballot processing, speak with administrative staff, and obtain administrative documents describing the procedures county election staff followed when processing vote-by-mail ballots. The local election official in each county also responded to a

lengthy written interview request and provided me with data on vote-by-mail ballots received, counted and rejected over four statewide elections: November 2008; November 2010; June 2012; and November 2012.

6. CVF published the study's findings in its report, "Improving California's Vote-by-Mail Process: A Three-County Study", in August 2014 on the CVF web site, available at <http://www.calvoter.org/votebymail> ("CVF Study"). The CVF Study focused on findings on the results of vote-by-mail balloting and rejection rates in the three counties over the four statewide elections. The CVF Study found that Orange County voters cast a total of 1,858,515 vote-by-mail ballots in these four elections, of which 13,649 were not counted, comprising a .7 percent rejection rate. Sacramento County voters cast a total of 937,157 vote-by-mail ballots in these four elections, of which 9,830 were not counted, comprising a 1.0 percent rejection rate. Santa Cruz County voters cast a total of 209,455 vote-by-mail ballots in these four elections, 1,466 of which were not counted, comprising a .7 percent rejection rate. The top three reasons why vote-by-mail ballots were rejected were because they arrived too late (61 percent), the voter's signature was missing from the vote-by-mail identification envelope (20 percent), and the signature on the envelope was determined to not adequately compare to the voter's voter registration signature or other signatures on file (18 percent). These findings are set

forth in Section 4 of the CVF Study on page 11, and are summarized in the chart below.

	Orange		Sacramento		Santa Cruz		3-county
<b>Reason Uncounted</b>	All elections*	Average	All elections	Average	All elections	Average	Average, all elections
Late	8,899	65%	4,752	48%	1,021	70%	61%
No signature	3,901	29%	1,627	17%	209	14%	20%
No sig compare	765	6%	3,317	34%	220	15%	18%
Other	84	1%	134	1%	16	1%	1%
<b>County Totals</b>							
Total VBM issued	2,853,265		1,380,628		285,127		4,519,020
Total received	1,858,517		937,157		209,455		3,005,129
Total received, not counted	13,649	0.7%	9,830	1.0%	1,466	0.7%	0.8%

\* "All elections" includes November 2012, June 2012, November 2010, and November 2008.

7. In addition to finding variations in the percentages of ballots rejected in the three counties, the CVF Study also documented that the percentage of ballots rejected for certain reasons also varied significantly between the three counties. For example, in Orange County, 29 percent of the uncounted ballots were rejected because voters failed to sign the vote-by-mail identification envelope; however, in Sacramento this was the rejection reason for 17 percent of the uncounted ballots and in Santa Cruz it was the reason for 14 percent of the rejected ballots. In Sacramento, 34 percent of the uncounted ballots were rejected because the signature was found to not adequately compare to the voters' signatures on file. By comparison, this was the rejection reason for just 6 percent of Orange County's uncounted ballots and 15 percent of Santa Cruz County's

uncounted ballots. Late arrival was the top reason for ballot rejection across all three counties; in Santa Cruz, late arrival was the rejection reason for 70 percent of the uncounted ballots. By comparison, in Orange, late arrival was the rejection reason for 65 percent of the uncounted ballots and in Sacramento it was the rejection reason for 48 percent of the uncounted ballots.

8. One component of the CVF Study was to find out how each county determines whether vote-by-mail identification envelope signatures compare to the voter's registration signature. CVF requested and received the written procedures listing the criteria that all three counties used for verifying signatures and compared them to the criteria provided in the Uniform Vote Counting Standards published by the California Secretary of State ("Vote Counting Standards") which are based on procedures set forth in California's Elections Code sections 3011 and 3019. A copy of the Vote Counting Standards is available at <http://www.sos.ca.gov/elections/uniform-vote-counting-standards/>, with Section VIII specifically addressing Vote-by-Mail Voting Systems.

9. One explanation the CVF Study found for the sizeable differences between counties in terms of the number of vote-by-mail ballots rejected due to a signature mismatch is the lack of uniform statewide standards for signature comparisons. The CVF Study documented nine criteria used by the three counties studied to verify signatures, and none of

these were included in the state's uniform guidelines. Only three of these nine criteria were used by all three counties (slant of the handwriting, how letters are connected to one another, and how "t"s are crossed and "i"s are dotted). Santa Cruz was unique in utilizing criteria that asked election staff to check if the first letters in the names compare, if there is a unique lettering style, if the signatures are similar if you turn the envelope upside down, or if printing is used on both the registration card and identification envelope. Both Sacramento and Santa Cruz considered whether signatures had similar endings, with an abrupt end, long tail, or a loop back around, but Orange's guidelines did not include these criteria. Orange County's guidelines did include looking for other similarities in writing style, such as the way the "F", "G", "Y" or "Z" is formed, or the shape of cursive loops, while neither Santa Cruz nor Sacramento County featured these criteria in their guidelines. The detailed assessment of the criteria used can be found in Section 13 of the CVF Study, and is summarized in the chart below.

<b>Guidelines address what to look at when comparing signatures</b>	<b>Orange</b>	<b>Sac.</b>	<b>Santa Cruz</b>	<b>SOS</b>
Slant of the handwriting	x	x	x	
How letters are connected to one another	x	x	x	
How "t"s are crossed and "i"s are dotted	x	x	x	
Similar endings (abrupt end, long tail, loop back around)		x	x	
Do the first letters in the names compare?			x	
Is there a unique lettering style?			x	
Are the signatures similar if you turn the envelope upside down?			x	
Printing on the registration card and ID envelope			x	
Other similarities of writing style, such as the way "F", "G", "Y" or "Z" is formed, or the shape of cursive loops.	x			

<b>Guidelines address what to do if...</b>	<b>Orange</b>	<b>Sac.</b>	<b>Santa Cruz</b>	<b>SOS</b>
Initials are substituted for any part of signature	x	x	x	x
Use of a mark instead of written signature	x		x	x
Use of a rubber stamp instead of written signature	x		x	
Only part of the signature is there	x			
Signature includes middle and last names, but not first	x			
Signature uses married/maiden name	x			
Signature compares to the spouse's signature			x	
Signature appears somewhere other than the designated place				x
ID envelope has a printed name; affidavit has written signature				x

10. Additionally, the CVF Study found that the three counties also varied in their signature verification instructions regarding how closely the signature on the vote-by-mail identification envelope must match the one on file. For example, Orange County’s instructions indicate that “There may be variations on a voter’s signature” but did not specifically state in its signature verification guidelines that signatures don’t have to be an exact “match”. Both Sacramento and Santa Cruz counties’ verification instructions included the clear statements that “The operative word is compare” and “The signatures do not have to be an exact match” (CVF Study, page 49).

11. The CVF Study also asked the three county registrars to describe the training provided to staff regarding how to verify signatures, finding that two of the counties had sought and received guidance from a county sheriff's office and one had not. Santa Cruz election workers had received training from their sheriff's office that taught them to look at pen marks and the impression of a pen, but that advice was not included in the written instructions for checking signatures. Like Santa Cruz, Orange County had also consulted with a local sheriff's department to receive additional training and advice about signature verification. Orange County invited representatives from the Los Angeles Sheriff's Office to come and teach the agency's staff how to verify signatures. The consultation changed the signature comparison process in Orange County and resulted in more vote-by-mail ballots being rejected because of signatures being found to not adequately compare. Though the Los Angeles Sheriff's Office staff reportedly did not continue to come to Orange County each subsequent election, its election office stated that one of its own staff members taught a class to all election workers participating in signature verification based upon the initial training provided by the Los Angeles Sheriff's Office.

12. As detailed in the CVF Study, there are some common challenges in signature comparison and verification practices faced by county election staff. One common challenge identified is the comparison between a "wet" signature made with a pen on a piece of paper (such as a

vote-by-mail identification envelope) and a screen-captured signature made with a stylus. The latter type of signature was referred to by election staff as a “Sharpie” signature since its wider lines resembled someone using a Sharpie pen to make their signature. These “Sharpie” signatures can result from a person using the state’s online voter registration system, which appends the registration applicant’s signature from his or her Department of Motor Vehicles driver’s license to the voter registration application. If the applicant’s DMV signature was created using a stylus, that person’s official signature of record with the elections department is a “Sharpie” signature, and can end up looking very different from his or her “wet” signature made with a pen on paper.

13. Another reason why a voter’s signature may not adequately compare to the one on file is because a person’s signature can change over time. If someone registers to vote as a teen but doesn’t actually begin voting until he is in his twenties, those signatures can look very different. The signature of someone who has lived at the same address for many years and therefore has no need to reregister to vote may also change over time. The challenge for voters in providing verifiable signatures on vote-by-mail identification envelopes is complicated by the fact that there is no simple way to show a voter what his or her signature on file looks like without the voter visiting the elections office in person and requesting to view it.

14. Finally, mistakes and errors can lead to a signature mismatch. For homes with more than one vote-by-mail voter, voters sometimes accidentally mix up their identification envelopes, not realizing that it is an identification envelope coded to each particular voter. Election officials interviewed for the CVF Study report that they can often detect this reason for a non-match by looking at all the signatures in a voter's household (page 50). In cases where two voters' ballots are returned in one another's identification envelopes, election officials are able to "marry up" the ballots with the correct envelope and count the ballots. However, the law does not require that election officials investigate non-matches resulting from this mistake.

15. The CVF Study asked the three counties whether they provided voters with mismatched signatures the same opportunity to correct their signature as voters with missing signatures.

16. For those vote-by-mail identification envelopes with missing signatures, all three counties reported that they voluntarily conducted outreach to voters whose signatures were missing and asked them to provide a signature by Election Day so that their ballots could be counted. At the time of the CVF Study, there was no simple way for a county to collect a missing signature; the only options were to ask the voter to come to the office and sign the vote-by-mail identification envelope, or mail the identification envelope with the ballot inside of it back to the voter and ask

that it be signed and returned. Each county took a different approach: Orange County sent a letter to voters asking them to come to the office and sign their identification envelope; Sacramento County tried phoning or emailing such voters if they had their contact information and asked them to come in and sign; if the voter couldn't be reached, Sacramento mailed the entire identification envelope and ballot back to the voter to sign. Santa Cruz mailed back the entire ballot and identification envelope, unless the unsigned envelope was received within a week of the election, in which case the election staff would try contacting the voter by phone or mail.

17. While all three counties attempted to collect missing signatures from voters before the Election Day deadline in order for their ballots to be counted, only one of the three counties attempted to collect new signatures from voters whose signatures had been found to not adequately match. Only Santa Cruz County contacted voters with mismatched signatures prior to Election Day to attempt to collect a new, matching signature so that the voters' ballots could be counted. In contrast, Sacramento and Orange counties sent out mailings to voters with mismatched signatures after the election (and after the ballot had not been counted) informing them that their signature did not adequately compare and requesting that they update their registration record with a new signature.

18. Additionally, I have personally witnessed the confusion caused by unclear and ambiguous guidelines for how to compare signatures on a vote-by-mail ballot. In November 2014, Sacramento voters cast ballots in one of the most competitive congressional races in the country that year. The election night results were close and with tens of thousands of vote-by-mail ballots to be counted in the days after the election, it was clear to election watchers that the outcome would be determined based on those ballots. One candidate's campaign observers were accused of challenging numerous signatures in a way that led some observers to believe the challenges were based on the voter's surname or zip code. The excessive challenges resulted in several news stories that brought a halt to the challenges. But the incident highlighted how, due to the non-standardized nature of the signature match determination, the process of signature verification can potentially be politicized in ways that can result in voter disenfranchisement.

19. Following the publication of the CVF Study I worked with state lawmakers to enact Assembly Bill 477, authored by Assemblyman Kevin Mullin, into law. AB 477 went into effect in January, 2016 and permits, but does not require, counties to collect missing signatures from voters separately from the ballot identification envelope and gives voters the right to provide a missing signature for a vote-by-mail ballot up to eight days after the election. Voters are not likely to know if their signature is

missing and their ballot is likely to be rejected unless their registrar informs them. This year, I contacted all three counties that were part of the CVF Study to find out whether they utilized this new law and its effect. All three counties - Santa Cruz, Sacramento and Orange - voluntarily implemented AB 477 in their June and November 2016 elections. The county election staff sent form letters to voters with missing signatures and asked them to provide a signature and send it back to the county so it could be appended to their ballots, their ballots signature deficiency cured and their ballots counted. The county registrars of voters shared with me the following notice and cure rates:

Orange County

Primary 2016	Number of voters contacted with missing signatures: 1,887 Number of signatures collected and ballots cured: 837 Cure rate: 44%
General 2016	Number of voters contacted with missing signatures: 2,549 Number of signatures collected and ballots cured: 1,632 Cure rate: 64%

Sacramento County

Primary 2016                      Number of voters contacted with missing signatures: 912  
Number of signatures collected and ballots cured: 479  
Cure rate: 53%

General 2016                      Number of voters contacted with missing signatures: 1,285  
Number of signatures collected and ballots cured: 794  
Cure rate: 62%

Santa Cruz County

Primary 2016                      Number of voters contacted with missing signatures: 93  
Number of signatures collected and ballots cured: 23  
Cure rate: 25%

General 2016                      Number of voters contacted with missing signatures: 67  
Number of signatures collected and ballots cured: 17  
Cure rate: 25%

20.     In addition, I asked the Registrar of Voters from a fourth county, Shasta, about its notice and cure rates. Shasta conducted outreach to all voters who had challenged vote-by-mail ballots, due to missing signatures, signature mismatches or other issues that caused a challenge, and gave voters the opportunity to correct their ballots in time for them to be cured and counted.

Shasta County

Primary 1016	Number of vote-by-mail ballots with missing signatures: 57 Number of voters contacted for all ballot challenges: 161 (of which 57 were missing signatures) Number of challenged ballots that were corrected: 92 Cure rate: 57%
General 2016	Number of vote-by-mail ballots with missing signatures: 103 Number of voters contacted for all ballot challenges: 338 (of which 103 were missing signatures) Number of challenged ballots that were corrected: 192 Cure rate: 57%

21. The above data rates suggest that a substantial percentage of voters who are notified of a ballot signature deficiency and given the opportunity to cure the deficiency will do so to have their ballot counted.

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

Executed on \_\_\_\_\_ at Sacramento, California

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Kim D. Alexander  
President, California Voter Foundation