

1 LAW OFFICE OF CHAD D. MORGAN  
2 **Chad D. Morgan, Esq. SBN 291282**  
3 P.O. Box 1989 PMB 342  
4 40729 Village Drive #8  
5 Big Bear Lake, CA 92315  
6 Tel: (951) 667-1927  
7 Fax: (866) 495-9985  
8 chad@chadmorgan.com

9 Attorney for Relator Mike Tardif

10 BEFORE THE ATTORNEY GENERAL  
11 OF THE STATE OF CALIFORNIA

12 The People of the State of California *ex rel.*  
13 **Mike Tardif,**

14 Plaintiff,

15 vs.

16 **Rebecca “Becki” Gomez,**

17 Defendant.

**Application for Leave to Sue in Quo  
Warranto**  
(CCP § 803; 11 CCR § 1)

**To the Attorney General of the State of California:**

As permitted by section 803 of the Code of Civil Procedure, Relator Mike Tardif applies for leave to sue in quo warranto in the name of the People of the State of California for a judicial declaration that Defendant Rebecca “Beckie” Gomez is unlawfully holding the office of Member of the Orange County Board of Education, Trustee District One. As required by section 2 of title 11 of the California Code of Regulations, this Application includes the following:

1. This Application and the attached Memorandum of Points and Authorities, which explains why the Attorney General should grant Tardif’s application for leave to sue;
2. Verified Statement of Facts;
3. A copy of the Notice directed to Defendant Gomez advising her of this Application and of her opportunity, within fifteen days of service of this Application, to show cause, if she has any, as to why “leave to sue” should not be granted;
4. An original and one copy of the proposed Verified Complaint, prepared for the Attorney General’s signature and the signature of counsel for the Relator, as attorneys for plaintiff; and
5. Proof of service of the foregoing documents on Defendant Gomez.

DATE: February 24, 2022

Respectfully Submitted,  
LAW OFFICE OF CHAD D. MORGAN

By: \_\_\_\_\_  
Chad D. Morgan Esq.  
Attorney for Relator, Mike Tardif

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12

**MEMORANDUM OF POINTS AND AUTHORITIES**

Government Code section 1099 prohibits public officers from simultaneously holding incompatible offices. As discussed herein, the offices of Orange County Board of Education and Tustin City Council are incompatible. When holding two incompatible offices, the officer retains the later-acquired office and forfeits the earlier. (Gov. Code § 1099, subd. (b).) Defendant Gomez was elected to the Orange County Board of Education and assumed that office on July 1, 2020. (Verified Statement of Facts, ¶ 1.) Then she was elected to the Tustin City Council, assuming that office on December 1, 2020. (*Id.*, ¶ 2.) Upon taking office on the City Council, she forfeited her position on the County Board of Education. (Gov. Code § 1099, subd. (b).) Her continued service on the Board of Education is unlawful, and Relator Mike Tardif seeks leave to sue for the purpose of removing Gomez from that office. (See Verified Statement of Facts, ¶ 3 [Tardif is a resident and elector in OCDE’s first district].)

13 The facts of this case are identical to those in Attorney General Opinion Number 21-103  
14 (2021 WL 5167919). In that opinion, the Attorney General’s Office granted Melissa Louden’s  
15 application for leave to sue Tim Shaw in an effort to oust him from the Orange County Board of  
16 Education after his election to the La Habra City Council. (*Id.* at \*1.) Gomez and Shaw were both  
17 elected to the Orange County Board of Education in the same election, Shaw to District Four and  
18 Gomez to District One. Then, they were both elected to their respective city councils in the  
19 November 2020 general election. As to Gomez, the offices of Tustin City Councilmember and  
20 Board of Education are incompatible for the exact same reasons that applied to Shaw. The only  
21 difference between them is cities they serve and the OCDE districts they represent.

22

**ARGUMENT**

23 When considering whether to grant an application for leave to sue in quo warranto, the  
24 Attorney General considers: “(1) whether quo warranto is an available and appropriate remedy;  
25 (2) whether the proposed relator has raised a substantial issue of law or fact that warrants judicial  
26 resolution, and (3) whether authorizing the quo warranto action will serve the public interest.”  
27 (Atty Gen. Opn. No. 21-103, 2021 WL 5167919, \*2.) All three considerations weigh in favor of  
28 granting this Application.

1           **I. QUO WARRANTO IS AN APPROPRIATE REMEDY.**

2           The prohibition on an official’s simultaneous holding of incompatible offices is expressly  
3 enforceable by Code of Civil Procedure section 803, the quo warranto statutes. (Gov. Code  
4 § 1099, subd. (b); see also Code Civ. Proc. § 803.) While that section requires that the Attorney  
5 General bring action against the official “whenever he has reason to believe that any such office  
6 or franchise has been usurped, intruded into, or unlawfully held or exercised by any person” it  
7 also allows private parties, by application to the Attorney General, to file suit to try title to public  
8 office. (Code Civ. Proc. § 803; see also, *e.g.*, *Klose v. Superior Court* (1950) 96 Cal.App.2d 913,  
9 925.) Quo warranto is an appropriate remedy. (See also Atty Gen. Opn. No. 21-103, 2021 WL  
10 5167919, \*2.)

11           **II. THERE IS A SUBSTANTIAL ISSUE OF LAW OR FACT THAT WARRANTS**  
12           **JUDICIAL RESOLUTION.**

13           The purpose of Government Code section 1099’s prohibition on simultaneously holding  
14 incompatible offices is that public policy demands that public officers discharge their duties with  
15 undivided loyalty. (Atty. Gen. Opn. 21-103 at \*2; 68 Ops.Cal.Atty.Gen. 337, 339 (1985).) The  
16 standard is not whether there actually is a conflict but whether one *might* occur. (Atty Gen. Opn.  
17 21-103 at \*3; 98 Ops.Cal.Atty.Gen. 94, 96 (2015).) Indeed, “[o]nly one potential significant clash  
18 of duties or loyalties is necessary to make offices incompatible.” (Atty Gen. Opn. 21-103 at \*3; 85  
19 Ops.Cal.Atty.Gen. 199, 200 (2002).)

20           Applied to the Shaw quo warranto application, the Attorney General considered its prior  
21 opinion involving the Contra Costa County Superintendent of Schools and a City Council. (Atty  
22 Gen. Opn. 21-103 at \*3; see also 101 Ops.Cal.Atty.Gen. 56 (2018).) The incompatibility discussed  
23 in that context was the “relationships between the *city council* and *county board of education*” (Atty  
24 Gen. Opn. 21-103 at \*4 [emphasis retained from Opn. 21-103]) because “[t]he county  
25 superintendent of schools is the ex officio secretary and executive officer of the [county] board  
26 [of education]” (Ed. Code § 1010). (See also 101 Ops.Cal.Atty.Gen. 56 (2018); Atty Gen. Opn.  
27 21-103 at \*5.) Thus, the concerns discussed in the 2018 Contra Costa opinion are particularly  
28

1 important here because it was the Contra Costa Superintendent’s connection to the county board  
2 that made his office incompatible, and here, the office in question is the county board itself.

3 In Opinion Number 21-103, the Attorney General identified several potential conflicts  
4 between Shaw’s city council and county board of education service. One was the agencies’ dual  
5 roles in choosing school locations. (*Id.* at \*4.) Additionally, the Attorney General has recognized  
6 that, under certain circumstances, a county board of education might exercise some of the exact  
7 same powers as a city council. (*Ibid.*) One example is the power of eminent domain, which each  
8 body possess, and which could be used by one to condemn the property of the other (*Ibid.*)  
9 Others are discussed on pages four and five of that opinion, and each potential conflict applies  
10 with as equal force between Tustin and the County Board of Education as it does as between the  
11 County Board and La Habra.

12 **III. AUTHORIZING THE QUO WARRANTO APPLICATION WILL SERVE THE**  
13 **PUBLIC INTEREST.**

14 As a general rule, the existence of a “need for judicial resolution of a substantial question  
15 of fact or law [is] a sufficient ‘public purpose’ to warrant granting leave to sue.” (Atty Gen. Opn.  
16 21-103 at \*5; 98 Ops.Cal.Atty.Gen., *supra*, at p. 101; 95 Ops.Cal.Atty.Gen. 77, 87 (2012).)  
17 Because that need exists here and there are not any exceptions or mitigating factors, then it  
18 would b in the public interest to grant leave to sue.

19 **CONCLUSION**

20 The Attorney General’s opinion as to the Contra Costa Superintendent, 101  
21 Ops.Cal.Atty.Gen. 56, *supra*, set the standard for evaluating compatibility between county boards  
22 of education and city councils. It’s opinion in the Shaw matter reinforced that standard. (See  
23 Atty. Gen. Opn. 21-103.) Gomez’s situation is exactly the same as Shaw’s. Because the Attorney  
24 General granted leave to sue in the Shaw matter, it should do so here as well.

25 //

26 //

27 //

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

DATE: February 24, 2022

Respectfully Submitted,  
LAW OFFICE OF CHAD D. MORGAN

By: \_\_\_\_\_

Chad D. Morgan Esq.  
Attorney for Relator, Mike Tardif

1 LAW OFFICE OF CHAD D. MORGAN  
2 **Chad D. Morgan, Esq. SBN 291282**  
3 P.O. Box 1989 PMB 342  
4 40729 Village Drive #8  
5 Big Bear Lake, CA 92315  
6 Tel: (951) 667-1927  
7 Fax: (866) 495-9985  
8 chad@chadmorgan.com

9 Attorney for Relator Mike Tardif

10 BEFORE THE ATTORNEY GENERAL  
11 OF THE STATE OF CALIFORNIA

12 The People of the State of California *ex rel.*  
13 **Mike Tardif,**

14 Plaintiff,

15 vs.

16 **Rebecca “Becki” Gomez,**

17 Defendant.

**Notice of Application for Leave to Sue in  
Quo Warranto**

NOTICE

**To Rebecca “Beckie” Gomez:**

PLEASE TAKE NOTICE that Relator Mike Tardif, on behalf of himself and other residents of the Frist District of the Orange County Department of Education, is submitting to the Attorney General of the State of California an application requesting leave to sue in quo warranto. Pursuant to Code of Civil Procedure section 803 *et seq.*, the application and proposed complaint seeks a judicial determination that you, Rebecca “Beckie” Gomez, have usurped, intruded into, and are unlawfully holding or exercising public office. Specifically, his application seeks judgment as follows:

1. That the Court declare that Defendant Rebecca “Beckie” Gomez has forfeited and is ineligible to hold or to continue to exercise the office of Member of the Orange County Board of Education for the First District and that the Court order her ousted and removed from that office;

2. That the Court fine Defendant the sum of \$5,000 pursuant to Code of Civil Procedure section 809;

3. That the Court order Defendant to pay the costs of this action, including Plaintiffs out-of-pocket expenses and reasonable attorneys’ fees under Code of Civil Procedure sections 809 and 1021.5, and any other applicable statute; and

4. That the Court grant Plaintiff such other, different, or further relief as the Court may deem just and proper.

As required by California Code of Regulations, title 11, section 2, Relator’s application to the Attorney General consists of an original and one copy of a proposed verified complaint; a verified statement of facts; and a memorandum of points and authorities showing why the proposed proceeding should be brought in the name of the people. Copies of all such documents are enclosed with this notice.

PLEASE TAKE FURTHER NOTICE that, within 15 days from service of this notice and the accompanying application and complaint, you, as the proposed Defendant, may show cause, if any you have, why leave to sue should not be granted. (11 Cal. Code Regs., § 3.)



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

DATE: February 24, 2022

Respectfully Submitted,  
LAW OFFICE OF CHAD D. MORGAN

By: \_\_\_\_\_

Chad D. Morgan Esq.  
Attorney for Relator, Mike Tardif

1 LAW OFFICE OF CHAD D. MORGAN  
2 **Chad D. Morgan, Esq. SBN 291282**  
3 P.O. Box 1989 PMB 342  
4 40729 Village Drive #8  
5 Big Bear Lake, CA 92315  
6 Tel: (951) 667-1927  
7 Fax: (866) 495-9985  
8 chad@chadmorgan.com

9 Attorney for Relator Mike Tardif

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR COUNTY OF ORANGE — CENTRAL JUSTICE CENTER

12 The People of the State of California *ex rel.*  
13 **Mike Tardif,**

14 Plaintiff,

15 vs.

16 **Rebecca “Becki” Gomez,**

17 Defendant.

18 Case No.

19 **Verified Complaint in Quo Warranto**  
20 (CCP § 803)

**VERIFIED COMPLAINT**

1 Plaintiff alleges as follows:

2  
3 1. This action is brought pursuant to Code of Civil Procedure section 803 to seek the  
4 removal of Defendant Rebecca “Becky” Gomez from the office of Member of the Orange  
5 County Board of Education (the “County Board”) representing the First Trustee District.

6 2. Plaintiff seeks to remove Defendant Gomez from the County Board because she  
7 also serves as a City Councilmember for the City of Tustin. Her position on the City Council is  
8 unlawfully incompatible with her service on the County Board. (Gov. Code § 1099.)

9 3. Gomez took office on the County Board on July 1, 2020. She took office on the  
10 City Council on December 1, 2020. Because City Council is the most recent position, she has  
11 forfeited her position on the County Board. (Gov. Code § 1099, subd (b).)

12 4. Unless the Court grants the relief Plaintiff requests, Relator and the other  
13 residents of the Orange County Department of Education’s First Trustee District will be denied  
14 their right to representation by a qualified and eligible public officer who is free from potential  
15 conflicts of interest and who solely represents the interests of the County Department of  
16 Education and is not dividing his or her loyalties between the County Board and the City of Tustin.

17 **A. Parties**

18 5. Relator **Mike Tardif** is a resident and registered voter, and elector in the City of  
19 Santa Ana, which is part of the First Trustee District of the Orange County Department of  
20 Education.

21 6. Defendant **Rebecca “Beckie” Gomez** is a resident of the City of Tustin, located  
22 in Orange County, California, and is currently usurping and unlawfully exercising the office of  
23 Member of the Orange County Board of Education, representing the First Trustee District, as set  
24 forth more fully herein.

25 **B. Jurisdiction and Venue**

26 7. This Court has jurisdiction to adjudicate the right of a person to hold public office  
27 pursuant to Code of Civil Procedure section 803 et seq.

28 8. Venue is proper in the County of Orange pursuant to Code of Civil Procedure  
section 393, subdivision (b).

1 **C. General Allegations**

2 9. The Orange County Department of Education supports and oversees the finances  
3 of 28 school districts, which collectively serve more than 600 schools and approximately 475,000  
4 students within Orange County. The Department also provides direct instruction to thousands of  
5 students throughout the county through its special education and alternative school programs,  
6 which include a number of “county community schools.”

7 10. The Department is governed by the Orange County Board of Education, which  
8 consists of five members who represent the five geographical trustee areas in the county.

9 11. The voters of each trustee area elect their respective board members for four-year  
10 terms. Trustee District One includes the cities of Fountain Valley and Santa Ana and portions of  
11 Tustin and Garden Grove.

12 12. In the March 2020 primary election, Defendant Gomez was elected to the Orange  
13 County Board of Education, District One. She assumed office on July 1, 2020.

14 13. In the November 2020 general election, she was elected to the Tustin City  
15 Council. She assumed that office on December 1, 2020.

16 14. There is an inherent conflict between service on a city council and county board  
17 education. For example:

- 18 a. Both the Tustin City Council and the County Board have overlapping  
19 authority over the placement of schools in their jurisdiction.
- 20 b. Both the Tustin City Council and the County Board have the power of  
21 eminent domain. One may use that power to condemn the other.
- 22 c. The Tustin City Council may contract with the County Board on matters such  
23 as community recreation, health supervision, library services, and the sale or  
24 lease of real property.

25 15. As to officers that serve on a city council and a county board of education, if and  
26 when these conflicts arise, there is a valid question about where the officer’s loyalties lie because  
27 what is best for one entity might not necessarily be best for the other  
28

1 **First Cause of Action**

2 (Unlawful Usurpation or Exercise of Public Office, Code Civ. Proc. § 803)

3 16. Plaintiff re-alleges and incorporates by reference the allegations set forth in  
4 paragraphs 1 through 15 above.

5 17. Under Government Code section 1099, the offices of Tustin City Council and  
6 County Board of Education are incompatible. It is improper and legally impermissible for one  
7 person to hold both offices at the same time.

8 18. When Defendant Gomez was elected to the Tustin City Council while also  
9 serving on the County Board of Education at the same time, she automatically forfeited her seat  
10 on the County Board as an operation of law. (Gov. Code § 1099, subd. (b).)

11 19. Defendant Gomez continues to serve on the County Board. By doing so, she is  
12 usurping, intruding into, and unlawfully holding and exercising the office of Member of the  
13 Orange County Board of Education representing the First Trustee District.

14 **PRAYER FOR RELIEF**

15 Wherefore, Plaintiff prays for judgment as follows:

- 16 1. That this Court determine and declare that Defendant Rebecca “Beckie” Gomez is
- 17 ineligible to hold or continue to exercise the office of Member of the Orange County
- 18 Board of Education for the First Trustee District and that this Court order her ousted
- 19 and removed from that office;
- 20 2. That this Court fine Defendant Gomez the sum of \$5,00 pursuant to Code of Civil
- 21 Procedure section 809;
- 22 3. That this Court order Defendant to pay the costs of this action, including Plaintiffs
- 23 and Relator’s out-of-pocket expenses and reasonable attorneys’ fees under Code of
- 24 Civil Procedure sections 809 and 1021.5, and any other applicable statute; and
- 25 4. That this Court grant Plaintiff such other, different, or further relief as the Court may
- 26 deem just and proper.

27 //

28 //

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

DATE:

Respectfully Submitted,  
LAW OFFICE OF CHAD D. MORGAN

By: \_\_\_\_\_

Chad D. Morgan Esq.  
*Attorney for Relator, Mike Tardif*

Pursuant to Code of Civil Procedure section 803 *et seq.*, this complaint is authorized for filing. Such authorization does not constitute or imply any determination regarding the ultimate correctness of accuracy of the matters pleaded herein.

ROB BONTA  
Attorney General of California  
MARC J. NOLAN  
Lead Deputy Attorney General.

By: \_\_\_\_\_  
MARC J. NOLAN  
Lead Deputy Attorney General  
*Attorneys for the Attorney General of California*

**VERIFICATION**

I, Mike Tardif, declare:

I am a resident and registered voter of the Orange County Department of Education, First District, and am the Relator in the above-entitled action., I have read the foregoing **Verified Complaint in Quo Warranto** and know the contents thereof to be true of my own knowledge, except to those matters that are alleged on information and, belief, and as to those matters I believe them to be true.

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

Feb 24, 2022

Date: \_\_\_\_\_

*Mike Tardif*

Mike Tardif (Feb 24, 2022 09:53 PST)

Mike Tardif

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 LAW OFFICE OF CHAD D. MORGAN  
2 **Chad D. Morgan, Esq. SBN 291282**  
3 P.O. Box 1989 PMB 342  
4 40729 Village Drive #8  
5 Big Bear Lake, CA 92315  
6 Tel: (951) 667-1927  
7 Fax: (866) 495-9985  
8 chad@chadmorgan.com

9 Attorney for Relator Mike Tardif

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR COUNTY OF ORANGE — CENTRAL JUSTICE CENTER

12 The People of the State of California *ex rel.*  
13 **Mike Tardif,**

14 Plaintiff,

15 vs.

16 **Rebecca “Becki” Gomez,**

17 Defendant.

**Verified Statement of Facts in Support of  
Application for Leave to Sue in Quo  
Warranto**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VERIFIED STATEMENT OF FACTS**

To the Attorney General of the State of California:

In support of his application for leave to sue in quo warranto, Relator Mike Tardif submits the following Verified Statement of Facts.

1. In the March 3, 2020 election, Defendant Gomez was one of three candidates for OCDE Trustee District One. She received the highest number of votes, was elected to the office, and received the oath of office on July 1, 2020 to begin her four-year term. She continues to serve in this office to this date.
2. On November 3, 2020, there was an election to fill three seats on the Tustin City Council. Gomez, who had previously served on the City Council from 2010 to 2018, sought to return to that office and was one of five candidates on the ballot. She received the second-highest vote total to win election to one of the three seats. On December 1, 2020, she took the oath of office and began her four-year city council term. She continues to serve in this office to this date. A portion of the City of Tustin lies within the boundaries of the OCDE First District. Tustin is served by the Tustin Unified School District, which serves more than 24,000 students at 18 elementary schools, a K-8 school, five middle schools, and four high schools.
3. Relator Mike Tardif is a resident and elector of the First District of the Orange County Department of Education and is currently represented on the County Board of Education by Defendant Gomez.

DATE:

Respectfully Submitted,  
LAW OFFICE OF CHAD D. MORGAN

By: \_\_\_\_\_

Chad D. Morgan Esq.  
*Attorney for Relator, Mike Tardif*

**VERIFICATION**

I, Mike Tardif, declare:

I am a resident and registered voter of the Orange County Department of Education, First District, and am the Relator in the above-entitled action., I have read the foregoing **Verified Statement of Facts in Support of Application for Leave to Sue in Quo Warranto** and know the contents thereof to be true of my own knowledge, except to those matters that are alleged on information and, belief, and as to those matters I believe them to be true.

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

Feb 24, 2022  
Date: \_\_\_\_\_

*Mike Tardif*  
Mike Tardif (Feb 24, 2022 09:53 PST)

Mike Tardif