

# Local News

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## New vote challenge in E. Palo Alto lawsuit

By Dave Farrell  
Times Tribune staff

### Opponents of incorporation want hand-delivered ballots thrown out

The lawsuit challenging East Palo Alto's incorporation election is scheduled to resume in San Mateo County Superior Court Tuesday with the plaintiffs expected to ask the judge to declare invalid at least 30 absentee ballots cast in the June 7 election.

The plaintiffs, Citizens Coalition Against Incorporation Now, contend the ballots were delivered illegally to the San Mateo County Clerk's Office by people other than the voters who cast the ballots.

According to the secretary of state's office, California election laws prohibit a third party from delivering absentee ballots for voters. A third party may mail a voter's absentee ballot to the clerk's office, however.

Tom Adams, the lawyer representing the

city of East Palo Alto and four of its City Council members, admits the ballots were hand-delivered, but he contends there is nothing wrong with that.

Adams charges that CCAIN and the group's lawyer, former Rep. Paul N. McCloskey Jr., have gathered hundreds of residents' names without any evidence of wrongdoing as part of a "fishing expedition" to find irregularities in the election.

"I don't think there was any fraud in East Palo Alto," Adams said. "The opponents of incorporation are mad because they got out-campaigned."

The trial has been in recess for two weeks while John Cruikshank, the judge

hearing the case, finished trying a murder case.

Tuesday will be the fifth day of the East Palo Alto trial. It is expected to run throughout the week and possibly into next week.

The trial will determine the validity of the city's June 7 election, in which voters approved incorporation by 15 votes. Absentee ballots played a major role in the election. Voters at the polls June 7 rejected incorporation by a vote of 1,678 to 1,599, but absentee voters approved the measure 183 to 89, swinging the election to incorporation, by a vote of 1,782 to 1,767.

The suit filed by CCAIN contends that

enough illegal ballots were cast in the election to change the results. The CCAIN lawsuit challenges the validity of some 300 ballots alleged to have been mishandled or cast illegally. Some of the allegations in the lawsuit include voting by non-residents, people casting votes for residents without the residents' permission and mishandling of absentee ballots.

During the initial period of the court challenge, CCAIN also charged that some absentee ballots may have been forged. The group hired a handwriting expert who pored over ballots in the county clerk's office, only to inform them that all of the signatures on the documents appeared to

be authentic.

Since he filed his court challenge, McCloskey has dropped some two dozen names off his list of "questionable" votes. Adams has urged the judge to force McCloskey to pare his list down drastically.

"I'm concerned about the scope of his (McCloskey's) contest," Adams told the judge.

McCloskey is paring his list of challenged ballots down from 312 to 197. He is scheduled to submit his shorter, revised list in court Tuesday.

Despite the legal challenge, the San Mateo County Board of Supervisors declared the election valid, and East Palo Alto was incorporated July 1.

Pro-incorporation members of the com-

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# BALLOTS

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munity have claimed the court challenge is motivated by two forces that traditionally have created the most friction in the community — racial intolerance and greed.

Newly elected Mayor Barbara Mouton, whose council seat is being

challenged, has said she believes the lawsuit is racially motivated. If East Palo Alto were predominately white, she said, the challenge would not have been filed.

Others charge that the suit is a power play by absentee landlords who fear the new City Council will enact permanent rent-control measures.

East Palo Alto landlords are playing a major role in the suit by financing much of the legal chal-

lenge. Arn Cenedella, an active CCAIN member, estimated several weeks ago that CCAIN has raised more than \$20,000 to fight the election in court.

One investment counselor for a landlord called a local newspaper recently to ask reporters for predictions on what will happen in East Palo Alto. The landlord is nervous about his property and doesn't know what to do with it, the investment counselor said.