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11 Attorney for Plaintiff,
12 Catherine Rucker

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FILED
Superior Court of California
County of Marin
FEB 1 2024
James M. Kim, Clerk of the Court
C. St Clair, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MARIN

14
15 Catherine RUCKER, an individual,
16 Plaintiff,

17 vs.

18 POINTE MARIN ASSOCIATION, II, a
19 non-profit mutual benefit corporation;
20 DOES 1-10, inclusive,

21 Defendants,

22) Civil Limited Case №: CV0001667
23) ~~ORIGINALLY FILED~~
24) [PROPOSED] ORDER
25)
26) ON CROSS MOTIONS FOR SUMMARY
27) JUDGMENT OR, ALTERNATIVELY,
28) SUMMARY ADJUDICATION
29)
30) I/C Judge: Andrew E. Judge Sweet
31) Courtroom: E
32)
33) Hearing Date: November 7, 2025
34) Hearing Time: 1:30 p.m.

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4 ORDER
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8 WHEREAS, these matters properly came before the Court on November 7, 2025. Plaintiff
9 Rucker being represented by Edward M. Teyssier, esq., Defendant Pointe Marin Association being
10 represented by Lauren Holappa, esq., counsel for both parties appearing remotely;

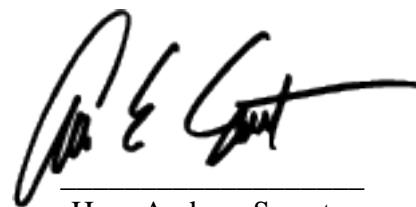
11 WHEREAS, after hearing the arguments submitted thereat, and upon reviewing the papers
12 submitted by the parties and for good cause shown;

13 THEREFORE, IT IS DECLARED, the attached notes shall be the order of this Court (See,
14 attached Exhibit A).

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19 IT IS SO ORDERED.
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21 DATED: 12/23/2025
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23 Hon. Andrew Sweet
24 Judge of the Superior Court
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7 **EXHIBIT A**
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Superior Court of the State of California
County of Marin

Case Title: Catherine Rucker vs. Pointe Marin Association
Date: November 7, 2025 | **Time:** 1:30 PM
Judge: Andrew E. Sweet
Department: Courtroom E

Case No.: CV0001667
Clerk: G. Stratford
Reporter: C. Gilson

Nature Of Proceedings:

Motion - Summary Judgment - filed 05/12/2025

Appearances:

Plaintiff: Catherine Rucker Present Remote In person Not Present

Attorney for Plaintiff: Edward Matthew Teyssier Present Remote In person Not Present

Defendant: Pointe Marin Association Present Remote In person Not Present

Attorney for Defendant: Lauren Holappa Present Remote In person Not Present

No appearance by or for the parties.

The matter is not heard or reported. The tentative ruling is final and incorporated herein.

Argument heard. Matter is submitted.

Petition/Motion is granted. denied. continued.

Demurrer sustained overruled continued with leave to amend. without leave to amend.

Tentative Ruling: is affirmed as modified, made final and incorporated herein.

Order(s) to be submitted for signature. The prevailing party or party designated by the Court shall follow local rule of court 2.11.

Other: *The court declares the entire case moot by agreement of the parties. The remaining part to litigate is the Attorney fees and Civil penalties and costs under Civil Code 5145.*

Next Scheduled Court Event(s): (Refer to Local Rule 1.18 regarding availability of a court reporter)

Matter is continued/set ____/____/____ at ____:____ in Department ____ for ____.

Hearing on Petition/Motion Order to Show Cause.

Case Management Conference is set ____/____/____ at ____:____ in Department ____.

Settlement Conference is set ____/____/____ at ____:____ in Department ____.

Issue Conference is set ____/____/____ at ____:____ in Department ____.

Court Jury Trial is set ____/____/____ at ____:____ in Department ____ with a time estimate of

____ days. All parties waive notice of trial. All parties present, notice of trial deemed given.

All future hearing dates remain as set.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 11/07/25 TIME: 1:30 P.M. DEPT: E CASE NO: CV0001667

PRESIDING: HON. ANDREW E. SWEET

REPORTER: C. Gilson

CLERK: G. STRATFORD

PLAINTIFF: CATHERINE RUCKER

Edward Teyssier

vs.

DEFENDANT: POINTE MARIN
ASSOCIATION

Lauren Holappa

NATURE OF PROCEEDINGS: MOTION – SUMMARY JUDGMENT

RULING *Moot*

The following Tentative Decision was originally posted on October 30, 2025. The hearing on the matter was continued to November 7, 2025.

Defendant Pointe Marin Association's ("Defendant" or "PMA") motion for summary judgment or, in the alternative, summary adjudication is denied in full. Plaintiff Catherine Rucker's ("Plaintiff") motion for summary judgment or, in the alternative, summary adjudication is likewise denied in full.

BACKGROUND

This is a dispute over homeowners association politics. The complaint alleges as follows. Defendant is a non-profit mutual benefit corporation formed to manage the Pointe Marin common interest residential development. (Complaint, ¶ 24.) Plaintiff owns two properties within the development. (*Id.* at ¶ 23.) On May 31, 2021, Defendant held a member election in which Pat Eklund ("Eklund") and Michael Christian ("Christian") were each elected to a two-year term as a director of Defendant. (*Id.* at ¶ 3.) In a separate member election held the same day, Defendant's members approved Amended Bylaws. (*Id.* at ¶ 4.) The Amended Bylaws increased the number of directors from three to five. (*Id.* at ¶ 5.)

In May 2023, Eklund's and Christian's terms expired. (Complaint, ¶ 7.) In September 2023, Defendant decided to hold an election to fill only three of the five director positions. (*Id.* at ¶¶ 10, 12.) The October 16, 2023 notice announcing the election indicated that Eklund's and Christian's seats were not up for election and would not be voted upon. (*Id.* at ¶ 13.) The notice attached a "Nomination Application & Candidate Statement Form" containing the following

candidate “certification statement”: “I also certify that I am not seeking or engaged in legal action against the Association and/or the Board of Directors and/or any individual Board Member.” (*Id.* at ¶ 14.)

Plaintiff has been engaged in litigation against Defendant for alleged election irregularities for some time.¹ Her present complaint asserts four causes of action. The first two are for declaratory relief. The First Cause of Action seeks a judicial declaration “that the two PMA director positions that are being ‘held by’ Pat Eklund and Michael Christian expired in May 2023” pursuant to Civil Code, section 5100, subdivision (a)(2). (Complaint, ¶¶ 29-31.) The Second Cause of Action seeks a judicial declaration “that the PMA’s ‘certification statement’ on the nomination form is ‘unlawful’” under Civil Code, section 5105, subdivision (c). (*Id.* at ¶¶ 32-35.)

Plaintiff’s other two causes of action are styled as requests for injunctive relief. The Third Cause of Action requests “injunctive relief to stop the PMA’s election that excludes the two expired director positions.” (Complaint, ¶ 36.) The Fourth Cause of Action requests “injunctive relief to order the PMA to hold an election to fill all five director positions.”

Both Plaintiff and Defendant now seek summary judgment, or, alternatively, summary adjudication.

LEGAL STANDARD

Any party may move for summary judgment (Code of Civ. Proc., § 437c, subd. (a); *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 843.) The motion “shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” (Code Civ. Proc., § 437c, subd. (c); *Aguilar, supra*, 25 Cal.4th 826, 843.) Similarly, “[a] party may seek summary adjudication on whether a cause of action, affirmative defense, or punitive damages claim has merit or whether a defendant owed a duty to a plaintiff. A motion for summary adjudication . . . shall proceed in all procedural respects as a motion for summary judgment.” (*California Bank & Trust v. Lawlor* (2013) 222 Cal.App.4th 625, 630, internal citations and quotation marks omitted; and see Code Civ. Proc., § 437c, subd. (f).) The object of the summary judgment procedure is “to cut through the parties’ pleadings” to determine whether trial is necessary to resolve the dispute. (*Aguilar, supra*, 25 Cal.4th 826, 843.)

The “party moving for summary judgment bears an initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact.” (*Aguilar, supra*, 25 Cal.4th 826, 850; see Evid. Code, § 110.) “A prima facie showing is one that is sufficient to support the position of the party in question.” (*Aguilar, supra*, 25 Cal.4th 826, 851.) When the moving party is the defendant, the initial burden entails showing “that one or more elements of the cause of action . . . cannot be established, or that there is a complete defense to the cause of action.” (Code Civ. Proc., § 437c, subd. (p)(2).) “Where the evidence submitted by a moving defendant does not support judgment in his favor, the court must deny the motion without looking at the opposing evidence, if any, submitted by the plaintiff.” (*Y.K.A. Industries, Inc. v. Redevelopment Agency of City of San Jose* (2009) 174 Cal.App.4th 339, 354; see also Code Civ.

¹ The Court grants Defendant’s unopposed request for judicial notice. (Evid. Code, § 452, subd. (d).)
Page 2 of 7

Proc., §§ 437c, subd. (p)(2) [on defendant's motion for summary judgment, plaintiff has no burden to oppose until defendant has met initial burden].) Once the moving party has met its initial burden, the burden shifts to the opposing party to "show that a triable issue of one or more material facts exists as to the cause of action or a defense thereto." (Code Civ. Proc., § 437c, subds. (p)(1)-(2).)

Throughout the process, the trial court "must consider all of the evidence and all of the inferences drawn therefrom." (*Aguilar, supra*, 25 Cal.4th 826, 856.) The moving party's evidence is strictly construed, while the opponent's is liberally construed. (*Id.* at p. 843.)

DEFENDANT'S MOTION

Issue No. 1

Defendant frames this issue as follows: "Plaintiff's requests for declaratory relief lack merit because Plaintiff cannot establish every element of the declaratory relief causes of action." (Amended Notice of Motion, p. 2.) Although framed as a single issue, this amounts to a request that the Court summarily adjudicate each of Plaintiff's separate claims for declaratory relief (her First and Second Causes of Action).

Plaintiff brings both of her causes of action for declaratory relief pursuant to Civil Code, section 5145, part of the Davis-Stirling Common Interest Development Act (Civ. Code, § 4000, *et seq.*; "the Act"). Section 5145 permits a member of a common interest association to "bring a civil action for declaratory or equitable relief for a violation" of the Act's election provisions. (Civ. Code, § 5145, subd. (a).) The statute permits a court to award civil penalties to a common interest association member who has "prevail[ed]" in such a lawsuit. (Civ. Code, § 5145, subd. (b).) The test for who is the "prevailing party" under the Act "is a pragmatic one, namely whether a party prevailed on a practical level by achieving its main litigation objectives." (*Almanor Lakeside Villas Owners Assn. v. Carson* (2016) 246 Cal.App.4th 761, 773; see also *Artus v. Gramercy Towers Condominium Assoc.* (2022) 76 Cal.App.5th 1043, 1051 [observing in the context of Civil Code, section 5145 that "in determining litigation success, courts should respect substance rather than form"] [quoting *Hsu v. Abbara* (1995) 9 Cal.4th 863, 877].)

In this case, Defendant contends that Plaintiff's two declaratory relief claims should be summarily adjudicated in Defendant's favor for lack of an "actual controversy." (See Code Civ. Proc., § 1060; *City of Cotati v. Cashman* (2002) 29 Cal.4th 69, 79 [primary requirement for a successful claim for declaratory relief is an "actual controversy relating to the legal rights and duties of the respective parties"].) The problem is that "[a] motion for summary adjudication shall be granted only if it *completely disposes of* a cause of action, an affirmative defense, a claim for damages, or an issue of duty." (Code Civ. Proc., § 437c, subd. (f) [emphasis added].) Even if the Court agreed that Plaintiff is not entitled to declaratory relief for want of an "actual controversy," that conclusion would not dispose of the declaratory relief causes of action in their entirety, because Plaintiff's requests for civil penalties exist within the context of her declaratory relief claims. A conclusion that Plaintiff is not entitled to declaratory relief does not necessarily affect her entitlement to civil penalties, because she could still be entitled to an award of civil penalties under Section 5145 even if she technically lost on her substantive claims, provided she

has achieved her main litigation objectives notwithstanding that loss. (*Almanor, supra*, 246 Cal.App.4th 761, 773.)

To be capable of completely disposing of the declaratory relief causes of action, Defendant's motion needed to establish that there is no dispute as to any fact material to Plaintiff's entitlement to civil penalties under Civil Code, section 5145. (Code Civ. Proc., §§ 437c, subds. (c), (f)(2); see *Aguilar, supra*, 25 Cal.4th 826, 850.) Defendant's moving papers are silent regarding the civil penalties issue. "If the defendant does not address an issue in a motion for summary judgment that has been raised in the plaintiff's complaint, it fails to meet its initial burden to show the plaintiff's action has no merit; the motion therefore fails to shift the burden to the plaintiff to oppose summary judgment." (*Hedayati v. Interinsurance Exchange of the Automobile Club* (2021) 67 Cal.App.5th 833, 846; see also *Hawkins v. Wilton* (2006) 144 Cal.App.4th 936, 946 [defense motion for summary judgment should not have been granted where "the 'issues to be addressed' in this case, as defined by [defendant's] motion, did not entitle [defendant] to summary judgment"] [emphasis in original].)

Defendant argues in its reply² that Plaintiff is not entitled to civil penalties under Civil Code, section 5145. That is beside the point. Defendant's failure to address this issue at all in its moving papers means Defendant did not carry the initial burden associated with a motion for summary judgment or summary adjudication, so the Court cannot grant summary judgment and cannot summarily adjudicate the declaratory relief claims, regardless of what Defendant does with its reply. (*Y.K.A. Industries, supra*, 174 Cal.App.4th 339, 354; Code Civ. Proc., §§ 437c, subd. (p)(2).) That Defendant did not identify the civil penalties issue as a target of its motion for summary adjudication in the notice of motion further prohibits the Court from resolving that issue at summary adjudication. (See *Homestead Savings v. Superior Court* (1986) 179 Cal.App.3d 494, 496 [trial court abused discretion by summarily adjudicating issue not targeted by the motion for summary adjudication].)

Summary adjudication is denied as to Issue No. 1. Plaintiff's motion for summary judgment is necessarily denied as well.

Issue No. 2

Defendant describes this issue as, "Plaintiff's requests for injunctive relief are moot." (Amended Notice of Motion, p. 2.) Plaintiff's Third Cause of Action is entitled "Request for Injunctive Relief to Stop the PMA's Election that Excludes the Two Expired Director Positions[.]" Similarly, her Fourth Cause of Action is styled "Request for Injunctive Relief to Order the PMA to Hold an Election to Fill All Five Director Positions[.]" Defendant's Issue No. 2 amounts to a request that the Court summarily adjudicate each of these two separate "causes of action" for injunctive relief, although such request is framed as a single "issue."

² Both parties submitted a second separate statement along with their reply to the other party's motion. The summary judgment statute does not provide for a "reply separate statement." (*Nazir v. United Airlines, Inc.* (2009) 178 Cal.App.4th 243, 306 [abrogated in unrelated part as stated in *Serri v. Santa Clara University* (2014) 226 Cal.App.4th 830, 853, fn. 12].) The Court has not considered either document.

Defendant correctly argues that there is no such thing as a cause of action for injunctive relief. (*Camp v. Board of Supervisors* (1981) 123 Cal.App.3d 334, 356.) Injunctive relief is a remedy, and a cause of action must exist as a prerequisite to injunctive relief. (*Ibid.*) Perversely, Defendant's correct statement of the law requires the Court to deny its request for summary adjudication. Summary adjudication can only be granted as to a "cause[] of action," an "affirmative defense[]," a "claim[] for damages," or an "issue[] of duty[.]" (Code Civ. Proc., § 437c, subd. (f).) A request for injunctive relief is none of those things. Plaintiff's erroneously pleading her requests for injunctive relief as causes of action does not render them appropriate subjects for summary adjudication, because however it is pleaded, a request for equitable relief divorced from the context of a substantive claim contains nothing to adjudicate. Defendant should have filed a motion to strike the "causes of action" for injunctive relief under Code of Civil Procedure, section 436. The summary adjudication statute is not suited to resolving pleading issues.

Summary adjudication is denied as to Issue No. 2.

PLAINTIFF'S MOTION

Plaintiff's Notice of Motion requests summary adjudication of four issues: the merits of each of the four causes of action in the complaint. Her brief, however, states that she files this motion "for a determination as to her entitlement to attorney fees, costs and civil penalties, as well as declaratory relief as to two remaining election issues." (Memorandum, p. 5.) The "two remaining election issues" are (1) Plaintiff's request for declaratory judgment as to the "certification statement" issue at the center of her Second Cause of Action, and (2) a further request for declaratory judgment "correct[ing] the Inspector of Elections' final election report[.]" which "mis-states that the April 10th election was held by acclamation." (*Ibid.*) Plaintiff's separate statement's recitation of the issues on which she seeks summary adjudication mirrors the recitation in her brief, except that it also indicates that Plaintiff seeks summary adjudication of various "sub-issues."

The rules governing motions for summary adjudication require the moving party to specify the issues for which summary adjudication is sought and describe those issues consistently throughout the moving papers. (See Cal. Rules of Court, rule 3.1350(b) ["If summary adjudication is sought . . . , the specific cause of action, affirmative defense, claims for damages, or issues of duty must be stated specifically in the notice of motion and be repeated, verbatim, in the separate statement of undisputed material facts."].) Plaintiff's failure to comply with this requirement means her moving papers do not provide Defendant fair notice of what Plaintiff seeks to have summarily adjudicated and therefore what Defendant needs to do to defeat the motion. (See *University Community Church v. Garcin* (1991) 231 Cal.App.3d 327, 337 ["The due process aspect of the separate statement requirement is self-evident – to inform the opposing party of the evidence to be disputed to defeat the motion."] [superseded by statute in unrelated part as stated in *Certain Underwriters at Lloyds of London v. Superior Court* (1997) 56 Cal.App.4th 952, 957, fn. 4]; see also *San Diego Watercrafts, Inc. v. Wells Fargo Bank, N.A.* (2002) 102 Cal.App.4th 308, 316 ["Where a remedy as drastic as summary judgment is involved, due process requires a party be fully advised of the issues to be addressed and be given adequate notice of what facts it must rebut in order to prevail."].) Plaintiff's noncompliance also prevents the Court from knowing what Plaintiff is asking it to summarily adjudicate.

A separate statement in support of a motion for summary adjudication “must separately identify . . . [e]ach cause of action, claim for damages, issue of duty, or affirmative defense that is the subject of the motion” and “[e]ach supporting material fact claimed to be without dispute *with respect to* the cause of action, claim for damages, issue of duty, or affirmative defense that is the subject of the motion.” (Cal. Rules of Court, rule 3.1350(d)(1) [emphasis added].) This requires the separate statement to be divided up by issue, listing all facts relevant to a given issue under a subheading for that issue. (See Cal. Rules of Court, rule 3.1350(h).) The obvious purpose of this rule is to enable the opposing party and the court to easily determine which facts they must contend with to defeat or decide the motion (whatever the case may be) as to each issue. (See *Collins v. Hertz Corp.* (2006) 144 Cal.App.4th 64, 74.) Plaintiff’s separate statement is not formatted in the manner required by California Rule of Court, rule 3.1350(h). Plaintiff has provided a chart containing *every* purportedly undisputed material fact relevant to her motion. The chart includes a column indicating which issue(s) and sub-issue(s) each fact relates to. Some of the facts are offered in connection with three or four different issues. One cannot readily distinguish the facts that are relevant to a given issue from the facts that are not on the face of this separate statement.

A moving party’s failure to comply with the separate statement requirement “may in the court’s discretion constitute a sufficient ground for denying the motion.” (Code Civ. Proc., § 437c, subd. (b)(1); see also *Beltran v. Hard Rock Hotel Licensing, Inc.* (2023) 97 Cal.App.5th 865, 876 [“Trial courts should not hesitate to deny summary judgment motions when the moving party fails to draft a compliant separate statement[.]”].) Plaintiff’s separate statement deviates from the applicable rules enough that it cannot be used for the purposes a separate statement was designed to serve.

The Court notes that even if it were to reach the merits of Plaintiff’s motion on the assumption that the issues Plaintiff wants adjudicated are those in the separate statement, the overwhelming majority of those issues are, on their face, inappropriate issues for summary adjudication. Issue Nos. 3 and 4 are the only ones that seek adjudication of a cause of action, an affirmative defense, a claim for damages, or an issue of duty. (Code Civ. Proc., § 437c, subd. (f)(1).) Issue No. 4 seeks summary adjudication of a declaratory relief claim that was not pleaded in the complaint and so is irrelevant to this case. “The materiality of a disputed fact is measured by the pleadings, which ‘set the boundaries of the issues to be resolved at summary judgment.’” (*Conroy v. Regents of University of California* (2009) 45 Cal.4th 1244, 1131-1132 [quoting *Oakland Raiders v. National Football League* (2005) 131 Cal.App.4th 621, 648].) Issue Nos. 1 and 2, and all five of their “sub-issues,” ask the Court to adjudicate Plaintiff’s entitlement to attorney’s fees and costs or to simply to make various findings of fact or law. (See, e.g., Sub-Issue No. 2c, which asks the Court to “summarily adjudicate” that “Litigation was necessary” and a host of facts bearing on how and why it was necessary.)

The Court denies Plaintiff’s motion in full for failure to comply with the separate statement requirement.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in

person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

The Zoom appearance information for November, 2025 is as follows:

<https://marin-courts-ca-gov.zoomgov.com/j/1615162449?pwd=e5SqeATq2HOsxxD7FhrI3O7qPFgFZa.l>

Meeting ID: 161 516 2449

Passcode: 073961

If you are unable to join by video, you may join by telephone by calling 1-669-254-5252 and using the above-provided passcode. Zoom appearance information may also be found on the Court's website: marin.courts.ca.gov