SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 01/28/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV2203062

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: JANE DOE (F.T.) vs. DEFENDANT: DOE #1, ET AL	

NATURE OF PROCEEDINGS: MOTION – DISCOVERY - DISCOVERY FACILITATOR PROGRAM

RULING

Defendant has filed a motion for order granting discovery at a defense medical examination pursuant to Code of Civil Procedure section 2017.220. In particular, Defendant seeks permission to question Plaintiff regarding her prior, concurrent, and subsequent sexual abuse which is not the basis for this lawsuit. Plaintiff has opposed the motion.

Factual Background

This action concerns a claim of sexual abuse. Plaintiff alleges that a former District employee groomed and sexually assaulted plaintiff while she was a high school student at San Rafael High School. Plaintiff alleges that Defendant's negligent supervision of Plaintiff and/or the employee resulted in the sexual assault.

At Plaintiff's deposition, Plaintiff's counsel indicated she would not permit discovery into Plaintiff's sexual abuse that occurred with individuals other than Defendant. Plaintiff has also conditioned a defense mental health examination on a stipulation that the examiner will not inquire into plaintiff's sexual history with any individuals other than the alleged perpetrator (Defendant).

Legal Analysis

In any civil action alleging conduct constituting sexual harassment, sexual assault or battery, the propounding discovery requesting discovery must establish specific facts showing that there is good cause for that discovery, and that the matter sought to be discovered is relevant to the subject matter of the action and reasonably calculated to lead to admissible evidence. (Code of Civ. Proc. § 2017.220.)

Defendant asserts it has established good cause for the discovery because medical examiner Dr. Polfliet provided a declaration averring it that in order to make an accurate and reliable diagnosis and to determine the extent and causation of Plaintiff's claimed injuries, it is important to obtain information about incidents of sexual abuse that could exacerbate the effect of the claims in the lawsuit.

In *Knoettgen v. Superior Court* (1990) 224 Cal.App.3d 11, the court examined whether an employer made a sufficient showing to justify discovery into sexual abuse unrelated to the plaintiff's case. The employer had submitted a similar declaration by a psychiatrist attesting that information about unrelated sexual abuse was important to determine whether there was any other source of emotional distress suffered. The court rejected this declaration as insufficient to justify such discovery under section 2017.20, noting that if it were to find this declaration to warrant discovery, discovery of prior or subsequent sexual abuse would be allowed in just about every case, which is something that the Legislature rejected. (Id. at 13-14.)

Based on the above, Defendant's motion to compel is denied.

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 January, 2025 is as follows:
https://marin-courts-ca-gov.zoomgov.com/j/1615487764?pwd=Ob4B5J7LLKcpnkxzJjjEOSHNzEGafG.1
Meeting ID: 161 548 7764
Passcode: 502070

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

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 01/28/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0003286

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: BUZULAGU AIZEZI	
vs.	
DEFENDANT: RYAN LEPENE, ET AL	

NATURE OF PROCEEDINGS: MOTION – ATTORNEY'S FEES

RULING

Plaintiff has moved for an award of attorneys' fees related to the filling of the default and default judgment following this court's order granting Defendant relief from default. Plaintiff seeks an eye popping $10,563.77 in fees and costs related to the default. In issuing its ruling granting the motion to set aside the default the court did not grant fees, but allowed Plaintiff to file a motion requesting fees.

Section 473.5 of the Code of Civil Procedure allows the court, upon terms which "may be just" to set aside the default. As the court noted in *Kodiak Films, Inc. v. Jensen* (1991) 230 Cal.App.3d 1260, while this phrase has been interpreted to allow the court in its discretion to award fees under section 473, section 473.5 is different because it concerns relief from judgment where the summons does not result in actual notice. (Code of Civ. Proc. §473.5(b).) In this regard, "it is less unfair to burden plaintiff with the added expense attending defendant's relief from default than it would be to burden defendant with it." *Kodiak Films, Inc. v. Jensen* supra, 230 Cal.App.1260, 1265.

In its order dated July 9, 2025, the court found that Plaintiff had not submitted sufficient evidence to show that Defendant had actual notice of the complaint. In light of this court's earlier ruling, the court declines to award attorney's fees.

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.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 01/28/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0005582

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: SHEILA TUFFANELLI vs. DEFENDANT: HOME DEPOT USA, INC., ET AL	

NATURE OF PROCEEDINGS: MOTION – COMPEL ANSWERS TO INTERROGATORIES - DISCOVERY FACILITATOR PROGRAM

RULING

Plaintiff filed a motion to compel further responses to interrogatories and requests for production of documents and for monetary sanctions. Defendant Home Depot opposed the motion. The parties were referred to Discovery Facilitator, Gautam Jagannath. Neither party filed Declaration of Non-Resolution as required in local rule MCR Civ 2.13H. Additionally, the court received correspondence from the facilitator that the matter had resolved.

In light of the above, the matter is off calendar.

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 January, 2026 is as follows:
https://marin-courts-ca-gov.zoomgov.com/j/1615487764?pwd=Ob4B5J7LLKcpnkxzJjjEOSHNzEGafG.1
Meeting ID: 161 548 7764
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 01/28/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0006481

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: DIRK AGUILAR vs. DEFENDANT: JUAN ANON, ET AL	

NATURE OF PROCEEDINGS: MOTION – OTHER

RULING

The motion of plaintiff Don Aguilar for trial preference pursuant to Code of Civil Procedure section 36, subdivision (e), opposed by defendants Maluk, LLC, Juan Anon and Natalya Anon, is denied without prejudice.

Section 36, subdivision (e), states that "[n]otwithstanding any other provision of law, the court may in its discretion grant a motion for preference that is supported by a showing that satisfies the court that the interests of justice will be served by granting this preference." "...[T]he decision to grant or deny a preferential trial setting [pursuant to this provision] rests at all times in the sound discretion of the trial court in light of the totality of the circumstances." (*Salas* v. *Sears, Roebuck & Co.* (1986) 42 Cal.3d 342, 344.)

Although the court is sympathetic to Plaintiff's situation, Plaintiff has not established that the interests of justice require preferential trial setting. Plaintiff's doctor advised him in May that he and his wife should seek alternative housing, yet they are still living in the house. Importantly, they have the option of seeking alternative housing and in fact did so after they discovered the roof defects. That this might be "impractical and unfair" does not warrant preferential trial setting. Further, any amounts incurred by Plaintiff and his wife for alternative housing and any money they spend remediating the issues with the property will be damages they can recover assuming they prevail in the action. "... Generally, judges are *reluctant* to grant preferential trial setting. With age and terminal illness situations already provided for..., there are relatively few situations that justify preempting other cases waiting in line for a trial date." (Weil and Brown, Cal. Practice Guide: Civil Procedure Before Trial (TRG 2025) § 12:256.3.) The circumstances in this case do not come close to any which Weil and Brown offer as examples of cases in which preference might be appropriate. (*Id.*, §§ 12:257-12:259.)

Because of the court's conclusion above, it need not address the objections to Plaintiff's evidence.

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 January, 2026 is as follows:
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 01/28/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0008270

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

IN THE MATTER OF: SAUSALITO YACHT CLUB MEMBERS FOR FAIR GOVERNANCE	

NATURE OF PROCEEDINGS: MOTION - PRELIMINARY INJUNCTION

RULING

Petitioner/Plaintiff's motion for preliminary injunction is denied.

Allegations in the First Amended Verified Petition and Derivative Complaint

Petitioner/Plaintiff Sausalito Yacht Club Members for Fair Governance, an unincorporated California association on behalf of its members individually and derivatively on behalf of the Sausalito Yacht Club, a California mutual benefit non-profit corporation ("Petitioner"), alleges that the leadership of the Sausalito Yacht Club (the "Club") manipulated its member disciplinary process to expel, suspend and reprimand Marisa McArthur, then the Vice Commodore of the Club who was running for the position of 2026 Commodore as a write-in candidate, and her family and supporters, for the purpose of favoring her rival, Executive Board Chair Tom Aden, for the position. Ms. McArthur, her family members, and supporters were disciplined after they used the member roster to send emails promoting Ms. McArthur's candidacy. Mr. Aden and the 2025 Commodore Russell Croce determined that this use violated the Club's rule against using roster and member emails for "commercial or political purposes." Following this determination, Ms. McArthur was expelled and several family members were expelled, suspended or reprimanded. Mr. Aden was ultimately elected for the position and six other candidates chosen by the nominating committee for other positions were elected despite being unqualified. Petitioner alleges that the Club's leaders' conduct violated the Club bylaws and rules, as well as state law. The First Cause of Action seeks a writ of traditional mandate compelling the defendants to vacate the expulsions, suspensions and reprimands. The Second Cause of Action seeks a writ of mandate vacating Mr. Aden's election under the California Corporations Code. The Third Cause of Action seeks a writ of mandate vacating the election of the other individuals under the Club bylaws. The Fourth Cause of Action is a derivative claim

on behalf of the Club for breach of fiduciary duty, abuse of control, and waste. The Fifth Cause of Action seeks declaratory relief.

The Requested Injunction

Petitioner seeks a preliminary injunction to "(1) preserve the status quo by preventing the Commodore-elect, the top elected position in the SYC, of the Club, from taking office January 1, 2026; (2) prevent on an interim basis the installation of six officers and chairpersons-elect who do not meet the mandatory qualifications for their positions under the Bylaws; and (3) enjoin the enforcement of unlawful expulsions and suspensions until this Court can adjudicate the merits." (MPA filed Dec. 8, 2025, at p. 1:12-16; First Amended Petition, Prayer for Relief, ¶¶3, 4.)

Standard

The power to issue preliminary injunctions is an extraordinary one and should be exercised with great caution and only where it appears that sufficient cause for hasty action exists. (*West v. Lind* (1960) 186 Cal.App.2d 563, 565.) The determination of whether to grant a preliminary injunction rests in the sound discretion of the trial court. (*Tahoe Keys Property Owners' Assn. v. State Water Resources Control Bd.* (1994) 23 Cal.App.4th 1459, 1470.)

"'To entitle a plaintiff to injunctive relief the burden is upon him to prove actual or threatened injury . . . Facts concerning the irreparable injury which, it is asserted, will result to the complainant unless protection is extended . . . must be pleaded . . . .'" (*City of Torrance v. Transitional Living Centers for Los Angeles, Inc.* (1982) 30 Cal.3d 516, 526 [citation omitted]; see *Association for Los Angeles Deputy Sheriffs v. County of Los Angeles* (2024) 106 Cal.App.5th 982, 992; *Loder v. City of Glendale* (1989) 216 Cal.App.3d 777, 786.) If the threshold requirement of irreparable injury is established, the court then examines two interrelated factors. (*Costa Mesa City Employees' Assn. v. City of Costa Mesa* (2012) 209 Cal.App.4th 298, 306.) The first is the likelihood that the moving party will prevail at trial. The second is the interim harm that the plaintiff will likely sustain if the injunction were denied as compared to the harm that the defendant will likely suffer if the injunction were issued. (*Pro-Family Advocates v. Gomez* (1996) 46 Cal.App.4th 1674, 1681-82.) "[T]he greater the plaintiff's showing on one, the less must be shown on the other to support an injunction." (*Jamison v. Department of Transp.* (2016) 4 Cal.App.5th 356, 361-62.) The burden of proof is on the plaintiff as the moving party "to show all elements necessary to support issuance of a preliminary injunction." (*O'Connell v. Superior Court* (2006) 141 Cal.App.4th 1452, 1481.)

Evidentiary Objections

Respondents/Defendants ("Respondents") assert 35 numbered objections to Petitioner's evidence. Many of these objections group together a number of statements and assert objections to that group of statements rather than setting forth a specific statement and a specific objection to that statement. Had Respondents followed the latter approach, which is cleaner and easier to follow, the actual number of objections asserted is significantly larger than 35. In addition, several of the objections are to statements that are not directly relevant to the issues before the Court. (See *Demps v. San Francisco Housing Authority* (2007)149 Cal.App.4th 564 n. 6 [noting

that burden on court is eased where objections are made only to items of evidence that are legitimately in dispute].)

The Court does not rule on Respondents' objections in any event as the challenged statements do not impact the Court's ruling. The Court's ruling denying the motion is based on Petitioner's failure to show irreparable harm. Regardless of the merits of any objections, the evidence upon which Petitioner relies is insufficient to meet its burden.

Discussion

I. The elections of Mr. Aden as Commodore and the six officers and chairpersons

The first and second parts of the requested injunction are moot to the extent that these individuals have already taken office, which the parties do not seem to dispute has occurred.[1] The Court cannot enjoin an event that has already occurred. (See *Finnie v. Town of Tiburon* (1988) 199 Cal.App.3d 1, 10-11; *Bernard v. Weaber* (1913) 23 Cal.App. 532, 535.) Petitioner may still pursue its claims, e.g., the Second and Third Causes of Action, challenging those elections. (See *Cota v. County of Los Angeles* (1980) 105 Cal.App.3d 282, 288-289.) However, as the current motion before the Court is for a specific preliminary injunction and the Court denies that motion as moot as it pertains to the elections, the Court does not address the merits of Petitioner's underlying claims. The Court also notes that Petitioner has failed to present any evidence of irreparable harm that may occur if individuals continue to hold office while this action is pending. (See *White v. Davis* (2003) 30 Cal.4th 528, 554 ["To obtain a preliminary injunction, a plaintiff ordinarily is required to present evidence of the irreparable injury or interim harm that it will suffer if an injunction is not issued pending an adjudication of the merits"].) In contrast, Respondents present evidence of the negative impact on the Club's operations if the elections are vacated and the positions are not currently filled. (Supplemental Declaration of Robert Lalanne, ¶49, 53, 54; Declaration of Kristina Feller, ¶15.)

II. The disciplinary actions

The third part of the requested injunction, i.e., to enjoin the enforcement of unlawful expulsions and suspensions until this Court can adjudicate the merits, is not moot as it is not tethered to a specific date that has passed. Petitioner challenges the imposed discipline in its First Cause of Action for writ of mandate based on Corporations Code Section 7341(b) and as part of its derivative claim in its Fourth Cause of Action and its Fifth Cause of Action for declaratory relief.

Section 7341(b) provides that "[a]ny expulsion, suspension, or termination must be done in good faith and in a fair and reasonable manner", and subsection (e) provides that in the event an action challenging an expulsion, suspension or termination is successful, "the court may order any relief, including reinstatement, it finds equitable under the circumstances."

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[1] Petitioner originally requested a hearing on December 31, 2025 but the Court continued the hearing to January 28, 2026 based on Petitioner's failure to comply with Code of Civil Procedure Section 1005 and to show urgency for the requested relief, and to allow newly named respondents to be served.

Petitioner contends that the discipline was imposed in bad faith because it was based on a novel interpretation of the Club Rules and Bylaws regarding use of the member email roster in connection with Club elections. Specifically, Petitioner argues that a Club Rule XII prohibits using the member email roster for "political purposes", but that rule makes an exception for "opinion and commentary that is . . . related to the business or activities of the Club unless approved by the Flag Officers and Chairs." Petitioner argues that Club elections are "related to the business or activities for the Club" and thus email use is allowed for this purpose. For write-in candidates, Petitioner argues, the only effective way to spread the word is by email. Respondents argue that their interpretation of Club Rule XII is reasonable and that Article XVI, § 1 of the Bylaws establishes that "[o]n all questions as to the construction or meaning of the Bylaws or the Club Regulations, the decision of the Executive Board and Flag Officers shall be final." They further contend that there were other reasons for the discipline as well, such as confrontations with other members and falsely emailing in the name of Staff Commodores, and that the disciplined members were informed of the reasons for the proposed discipline and given a disciplinary hearing to defend their position. They were also given an opportunity to appeal their discipline, but none of the disciplined members appeared for an appeal.

Petitioner's motion as to the third part of the requested injunction, i.e., to enjoin enforcement of the discipline imposed on the members, is denied. The requested injunction is a mandatory injunction requiring Respondents to take affirmative steps in reversing the discipline and allowing the members to be active members no longer subject to any discipline. Petitioner has not shown this is an extreme case where the right to the injunction is clearly established and that it will suffer irreparable injury without the requested relief. (See *Davenport v. Blue Cross of California* (1997) 52 Cal.App.4th 435, 446 ["'[t]he granting of a mandatory injunction pending the trial, and before the rights of the parties in the subject matter which the injunction is designed to affect have been definitely ascertained . . . is not permitted except in extreme cases where the right thereto is clearly established and it appears that irreparable injury will flow from its refusal'"] [citation omitted]; *Hagen v. Beth* (1897) 118 Cal. 330, 331.)

Petitioner has submitted insufficient evidence of irreparable harm that may occur if the discipline remains in place while this action is pending. Petitioner relies on the declarations of Marge Bottari, Todd Wheeler, Tammy Blanchard, Cyndi Wheeler and Jock Rystrom, which are insufficient as discussed below. Ms. Bottari states that the Club "has been my social life, my boating life and my family and friends (my tribe) for 40 years" (¶16) and that "[u]nless the Court intervenes, I believe the atmosphere of fear and division within the Club will continue. I have completely lost my ability to participate as a member unless this lawsuit is resolved in our favor. The loss cannot be adequately compensated by money" (¶17). Mr. Wheeler states that being threatened with discipline and losing close friends who were expelled "caused ongoing emotional harm. This harm is not something that can be remedied by monetary relief. It affects my sense of belonging, my enjoyment of the Club, and my willingness to participate in Club activities and governance" (¶9) and "Unless the Court intervenes, I believe the atmosphere of fear and division within the Club will continue, and my ability to participate fully as a member will remain impaired" (¶10). Ms. Blanchard states that she and her family have been cut off from the only community they have truly known since 2005 (¶3), her friends hesitate to speak to her out of fear of retaliation (¶4), her grandchildren no longer feel welcome at the Club (¶4), and no damages can restore the memories or give her back the community she lost (¶5). Ms. Wheeler states that she no longer feels comfortable attending Club events or visiting the Club

because it reminder her that other members have been excluded (¶¶5, 7, 9, 10), she has experienced stress, anxiety and sadness from the expulsions and she worries whether expressing her views could result in retaliation (¶¶6, 8), and the emotional harm is ongoing and cannot be remedied by monetary damages (¶11). Mr. Rystrom states that he is concerned that raising objections may expose him to retaliation or improper disciplinary action (¶11).

The above evidence describes the emotional and societal impacts certain members are experiencing from the discipline, but it does not establish irreparable harm. If feelings of disappointment and uncertainty resulting from challenged conduct were sufficient to show irreparable harm, this requirement would lose its meaning as it would arguably exist for almost every plaintiff seeking an injunction. The declarants' stated trepidation and fear of retaliation is also insufficient as it is speculative and remote only. As noted above, this is not an extreme case in which a mandatory injunction is warranted. The motion is therefore denied.

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.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 01/28/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0008353

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: MARK ALLEN vs. DEFENDANT: CITY OF SAN RAFAEL	

NATURE OF PROCEEDINGS: MOTION – PRELIMINARY INJUNCTION

RULING

Petitioner Mark Allen's ("Petitioner") Motion for Preliminary Injunction is DENIED.

BACKGROUND

On November 17, 2025, the City Council for the City of San Rafael ("Respondent" or "the City") approved the City's acquisition of property at 350 Merrydale Road for the purpose of providing shelter for unhoused individuals. The City's plans include the development of an interim shelter to provide temporary housing for up to 65 unhoused individuals, as well as to eventually develop the site with up to 80 units of permanent affordable housing.

Petitioner opposes the City's plans. Following two unsuccessful ex parte applications filed in separate litigation (*Allen v. City of San Rafael*, Marin County Sup. Ct. Case no. CV0006338), Petitioner now files the present action, challenging the City's compliance with the California Environmental Quality Act ("CEQA") in its various actions relating to 350 Merrydale Road.

With this Motion, Petitioner seeks a Preliminary Injunction which 1. Orders the City to cease further implementation actions for the Merrydale project pending lawful CEQA compliance; 2. Prohibits reliance on the current CEQA Exemption Review; 3. Preserves the status quo to protect the Court's jurisdiction; and 4. Grants such other relief as the Court deems just.

REQUEST FOR JUDICIAL NOTICE

The City's Request for Judicial Notice No. 1 is GRANTED. (Evid. Code, §§ 452, 453.)

OBJECTIONS TO EVIDENCE

The City objects to Exhibits F, G, H, I, J, K, L, N attached to Petitioner's "Brief on Motion" as well as Supplemental Exhibit A attached to Petitioner's "Supplemental Declaration" on the grounds that the Petitioner does not demonstrate that any of these documents were included in the Administrative Record.

The Objections are SUSTAINED. Petitioner fails to demonstrate that these Exhibits were part of the record, or if not, that any exception to the general prohibition against the consideration of extra-record evidence applies. (*Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 570–579.)

LEGAL STANDARD

A preliminary injunction is an "extraordinary" form of relief because it is issued "prior to a full adjudication of the merits." (*College Hospital Inc. v. Superior Court* (1994) 8 Cal.4th 704, 715; *White v. Davis* (2003) 30 Cal.4th 528, 554 (*White*).) In deciding whether to award such relief, a trial court is to examine "two interrelated factors: (1) the likelihood that the [the party moving for the preliminary injunction,] will prevail on the merits [at trial], and (2) the relative balance of harms that is likely to result from the granting or denial of the interim injunctive relief." (*White*, at p. 554; *IT Corp. v. County of Imperial* (1983) 35 Cal.3d 63, 69-70 (*IT Corp.*).) "These two [factors] operate on a sliding scale: '[T]he more likely it is that [the party seeking the injunction] will ultimately prevail, the less severe must be the harm that they allege will occur if the injunction does not issue.' " (*Integrated Dynamic Solutions, Inc. v. VitaVet Labs, Inc.* (2016) 6 Cal.App.5th 1178, 1183 (*Integrated Dynamic*), quoting *King v. Meese* (1987) 43 Cal.3d 1217, 1227 (*King*); accord, *Fairrington v. Dyke Water Co.* (1958) 50 Cal.2d 198, 200 [applying this principle].)

Thus, "[t]he trial court's determination must be guided by a 'mix' of the potential-merit and interim-harm factors; the greater the plaintiff's showing on one, the less must be shown on the other to support an injunction." (*Butt v. State of California* (1992) 4 Cal.4th 668, 678.) "A trial court may not grant a preliminary injunction, regardless of the balance of interim harm, unless there is some possibility that the plaintiff would ultimately prevail on the merits of the claim." (*Ibid.*) Accordingly, the trial court must deny a motion for a preliminary injunction if there is no reasonable likelihood the moving party will prevail on the merits. (*Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432, 447; *see Yu v. University of La Verne* (2011) 196 Cal.App.4th 779, 786–787 [order denying a motion for preliminary injunction should be affirmed if the trial court correctly found the moving party failed to satisfy either of the two factors].)

The trial court's order on a request for a preliminary injunction "reflects nothing more than the superior court's evaluation of the controversy on the record before it at the time of its ruling; it is not an adjudication of the ultimate merits of the dispute." (*People v. Uber Techs., Inc.* (2020) 56 Cal.App.5th 266, 283, as modified on denial of reh'g (Nov. 20, 2020); *People ex rel. Gallo v. Acuna* (1997) 14 Cal.4th 1090, 1109; *Yee v. American National Ins. Co.* (2015) 235 Cal.App.4th 453, 457–458.) The preliminary injunction is intended to "preserv[e] ... the status quo until a final determination of the merits of the action." (*Continental Baking Co. v. Katz* (1968) 68 Cal.2d 512, 528.) The power to issue preliminary injunctions is an extraordinary one

and should be exercised with great caution and only where it appears that sufficient cause for hasty action exists. (*West v Lind* (1960) 186 Cal.App.2d 563.)

If the court grants the preliminary injunction, the court *must* require an undertaking or allow a cash deposit in lieu thereof. (Code Civ. Proc., § 529.)

DISCUSSION

Likelihood of Prevailing on the Merits

In support of his motion, Petitioner argues that this lawsuit challenges the City's reliance on "demonstrably false environmental findings" to bypass CEQA for a project adjacent to an active creek, riparian corridor, and regulated watershed. Specifically, Petitioner argues that: 1. The City made materially false baseline findings ("no wetlands"); 2. Environmental impacts are reasonably foreseeable and ongoing, including off-site dispersal impacts; 3. Those impacts fall outside the scope of any statutory or categorical exemption; 4. The City pre-committed to the project in violation of Save Tara; and 5. Interim relief is necessary to preserve the Court's ability to grant meaningful relief.

The opposition counters that Petitioner cannot establish a likelihood of prevailing on the merits for at least four reasons: 1. Petitioner failed to timely request preparation of the administrative record, without which he cannot meet the burden of proof for his case; 2. Homeless Shelter Projects such as the one at 350 Merrydale Road are expressly excluded from CEQA challenges; 3. Petitioner's case relies on evidence and arguments that he never demonstrates that he (or anybody else) raised in the administrative proceedings before the Council; and 4. Even if the Project did not qualify for these statutory CEQA exemptions, the City also properly found that it alternatively fell within the scope of various other CEQA exemptions, including the exemptions set forth in CEQA Guidelines section 15183 and section 15332.

The burden is the party seeking injunctive relief, to show all elements necessary to support issuance of a preliminary injunction, presenting facts establishing the requisite reasonable probability of success on the merits. (*O'Connell v. Superior Ct.* (2006) 141 Cal.App.4th 1452, 1481; *Fleishman v. Superior Ct.* (2002) 102 Cal.App.4th 350, 356.) The drastic remedy of an injunction pendente lite may not be permitted except upon a sufficient factual showing. (*Ibid.*)

Here, the Court finds that Petitioner has not met this burden. He fails to demonstrate his arguments were raised during the administrative proceedings, he fails to explain why his extra record evidence which purports to contradict the "no wetlands" finding should be considered, he fails to summarize all of the evidence supporting the City Council's factual determinations and explain why there is insufficient evidence in the record supporting those determinations, etc.

For these reasons, the first factor weighs against issuing the preliminary injunction as requested.

Balancing of the Harms

The balancing of the interim harms likely to result from granting or denying a preliminary injunction in a CEQA proceeding requires the consideration of harms to public interests. (*Tulare Lake Canal Co. v. Stratford Pub. Util. Dist.* (2023) 92 Cal.App.5th 380, 396–98.0 In other words, the "relative balance of harms" encompasses harms to public interests that are likely to result from the issuance or nonissuance of a preliminary injunction. (*Ibid.* Internal citations omitted.)

In this case, public interest weighs against the issuance of a preliminary injunction. The public interest in providing shelter for unsheltered City residents is strong. Indeed, as part of the Project, the City Council declared the existence of a shelter crisis. (See City's November 18, 2025, Notice of Exemption ¶ 3, attached as Exhibit B to Petitioner's Motion.) While public interest also exists with respect to preventing environmental harms, given the shelter crisis declaration and Petitioner's failure to meet his burden with respect to the first factor, the balancing of the harms also weighs against issuing the preliminary injunction.

For these reasons, the Motion is DENIED.

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 January, 2026 is as follows:
https://marin-courts-ca-gov.zoomgov.com/j/1615487764?pwd=Ob4B5J7LLKcpnkxzJjjEOSHNzEGafG.1
Meeting ID: 161 548 7764
Passcode: 502070

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