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County of Santa Cruz  
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17 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
18 IN AND FOR THE COUNTY OF SANTA CRUZ  
19 UNLIMITED JURISDICTION

20 WILLIAM J. PARDUE; MYRON COLEMAN;  
21 LAURA CRATS; WILLIAM ECKARD; LEE  
22 HEATHORN; PAT MCDONALD; MARTY  
23 MILLER; SHARON NARAGHI; KEN PYLE;  
24 ELIZABETH STIEFELMAIER; MARK  
25 TRUEGE; GEORGE TUREGANO; KEN  
26 WILSON; and ROBERT WUNCE;

27 Plaintiffs,

28 vs.

29 KURT LIKINS; VERDIE POLIZZI; JOE  
30 MAYO; and DOES 1 to 20;

31 Defendants,

32 DICK LOVELACE; HAROLD BROWN;  
33 SEVILLA GRANGER; and THE PARADISE  
34 PARK MASONIC CLUB;

35 Involuntary Plaintiffs.

CASE NO. 21CV01005

**DEFENDANT PARADISE PARK MASONIC  
CLUB, INC.'S TRIAL BRIEF**

**Master Trial Calendar Call:**

**Date: May 20, 2021  
Time: 1:30 pm  
Dept: 5**

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1 Defendant, The Paradise Park Masonic Club (erroneously named as an  
2 “Involuntary Plaintiff”) hereby submits this trial brief.

3 **I. INTRODUCTION**

4 The Paradise Park Masonic Club (“PPMC”) owns a 135-acre parcel of real  
5 property (“Paradise Park”) which is divided up into 391 membership allotments  
6 (essentially, single family homes). A PPMC membership allows the member and their  
7 family to maintain a residence at one of the Paradise Park “allotments.” Members of  
8 PPMC must also be members in good standing of a qualifying Masonic Order. The  
9 PPMC Board of Directors acts as the governing body for the corporation, and in turn,  
10 Paradise Park itself.

11 Some PPMC members have passed down their allotments over generations.  
12 Given that the PPMC community engages in such long-standing interpersonal dealings,  
13 it is natural that factions and disagreements might arise from time to time. Undoubtedly,  
14 there is a minority faction of PPMC members who are dissatisfied with some of the  
15 actions of the past and current PPMC Board of Directors. Seeking court intervention  
16 into the workings of PPMC is the legal right of any concerned PPMC member.

17 However, in the instant matter, Plaintiffs are not seeking a sober adjudication of  
18 disagreements within PPMC. Rather, Plaintiffs have invoked a misguided legal  
19 framework and are seeking to ambush their way into a “coup” and take-over of  
20 the PPMC Board of Directors. Plaintiffs have mistakenly relied on the expedited hearing  
21 procedure set forth in Corporations Code 7616, which should not apply to this situation.  
22 Plaintiffs have also incorrectly named PPMC as an “involuntary Plaintiff” (a concept  
23 which does not appear to exist under California Law). Plaintiff has proceeded in this  
24 manner to avoid the mediation requirement under the PPMC bylaws, and in order to  
25 seek an improper summary hearing of their claim and limit the potential defenses raised  
26 by PPMC. This is ambush litigation, and the court should not encourage it.

27 The court should note that only one of the fourteen named Plaintiffs verified the  
28 instant complaint, and the complaint itself alleges all the substantive allegations on

1 “information and belief” only (see Complaint at ¶ 11).<sup>1</sup> As explored below, and as the  
2 evidence will show if this matter proceeds to trial, Plaintiffs’ underlying claims are  
3 baseless.

4 The instant action – and especially the expedited trial date which Plaintiffs have  
5 managed to get placed on the court’s calendar – is nothing more than a calculated  
6 power play and “ambush litigation.” Plaintiffs have invoked a statute that does not apply  
7 to the instant situation to seek an expedited hearing of their case. Plaintiffs are also  
8 advancing a dubious legal theory under which PPMC – the very organization that they  
9 are seeking to take over – cannot even appear and represent itself. Further, Plaintiffs  
10 have failed to satisfy the mediation requirement under the PPMC Bylaws, which  
11 requires mediation “before the filing of any lawsuit.” Finally, Plaintiffs’ claims rely on  
12 wild accusations and calumny – casting the board of directors as a conspiratorial  
13 tyranny – and even, quite unprofessionally, accusing the Board’s forty-year counsel,  
14 Robert Bosso, of personal corruption.

15 As explored below, the pending trial should be taken off calendar, and the matter  
16 should progress into discovery and mediation. If it does proceed to trial, the evidence  
17 will show that Plaintiffs wild accusations and conspiracy theories are simply unfounded.

## 18 II. SUMMARY OF BRIEF

19 In attempting to distill the history and relevant witnesses down to their essentials,  
20 here are the key legal and factual points which the court should consider:

- 21 - **2020 BOARD OF DIRECTOR ELECTIONS:** The PPMC Board of Directors  
22 governs the corporation and park and is elected annually. After the May 2020  
23 election, some members complained to the new Board President that one of  
24 the nominees had been improperly nominated. The President sought legal

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27 <sup>1</sup> The sole verifying Plaintiff, William Pardue, is also himself an attorney. It is clear that  
28 Plaintiffs have been careful to avoid perjuring themselves while at the same time seeming to present  
robust factual allegations to the court. Several of the facts which Plaintiffs allege on “information and  
belief” are clearly and demonstrably false beyond all reasonable dispute.

1 counsel. Counsel advised that, due to the improper nomination, the election  
2 was invalid, and a new election needed to be held. Based on this advice, a  
3 new election was held in August 2020. The results were the same as the  
4 prior election except for a single board-member who was not elected in the  
5 second election.

- 6 - **NEW BOARD SEATED:** Plaintiffs allege that, after the May 2020 election, the  
7 old board of directors refused to relinquish power to the new board of  
8 directors. This is completely false and can be disproven by overwhelming  
9 evidence including minutes of the relevant board meetings, video recordings  
10 of the board meetings, email chains by and between the “new board” and  
11 personal testimony of the new board members. Plaintiffs have been careful  
12 not to allege this, nor any other substantive allegation, under penalty of  
13 perjury.
- 14 - **EXPEDITED TRIAL DOES NOT APPLY:** Corporations Code section 7616  
15 does not apply to this matter. Section 7616 is meant to address a dispute  
16 over the validity of an election *quickly after the election takes place, in order*  
17 *to prevent an invalid Board from acting and binding the corporation.* In this  
18 case, such concerns do not exist for three reasons:
  - 19 ○ **(1) The Board has been in power since September 2020** and has  
20 never been challenged until this matter was filed.
  - 21 ○ **(2) The “New” Board is composed of the old board, save for a**  
22 **single member.** The majority of both boards agree with the actions of  
23 PPMC and oppose the Plaintiffs in this matter.
  - 24 ○ **(3) The 2021 Board elections take place in the month of June.** By  
25 the time this matter will be heard, a new board will have been elected.
- 26 - **NO EVIDENCE OF FRAUD.** There is no credible evidence of fraud in either  
27 of the 2020 elections. Plaintiffs have not even alleged that they will produce  
28 such evidence, rather, they rely on speculation and innuendo to support their

1 fraud claims. But the board elections are supervised and conducted by a  
2 separate elections committee, not the Board itself. If necessary, the elections  
3 committee will testify that it followed normal election procedures and that  
4 there were no irregularities in either election. The allegation of fraud is  
5 another item which Plaintiffs refuse to verify under penalty of perjury.

- 6 - **THE RECALL PETITION ISSUE IS MOOT.** Plaintiffs complain that there  
7 were irregularities in the handling of two board recall petitions which Plaintiffs  
8 promulgated in July 2020. These matters are moot, because the terms of the  
9 recalled Directors end at the conclusion of June 2020. Further, the recall  
10 issue does not qualify as the “election of a director,” so the expedited hearing  
11 procedures of Corp Code 7616 do not apply (nor was the cause of action for  
12 7616 relief plead as against the recall petitions). The recall petitions are  
13 subject to Defendants Motion in Limine # 3. The scope of any trial should be  
14 limited to *not* include the issue of the recall petitions.

15 As explored below, the most sensible and expeditious resolution of this matter  
16 would be to set it for mediation and normal civil procedure process – not to rush into a  
17 ramshackle trial which will be moot by the time it is heard.

### 18 **III. FACTUAL SUMMARY**

19 If this matter proceeds to trial, the following facts will come into evidence. It is  
20 believed that the following facts will be established by overwhelming if not undisputed  
21 evidence:

#### 22 **A. Nature of Paradise Park Masonic Club**

23 Paradise Park Masonic Club (“PPMC”) is a California nonprofit mutual benefit  
24 corporation, incorporated on August 16, 1924. PPMC is a 501(c)(7) non-profit entity  
25 under the Internal Revenue Code. PPMC’s Board of Directors manages all activities  
26 and affairs and exercises all corporate power. (Bylaws, Art. VI, § 1, pgs. 14-15.)

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1 PPMC owns approximately 135 acres of real property along the San Lorenzo  
2 River in Santa Cruz County ("Paradise Park"). PPMC memberships are then allotted to  
3 members, who own individual improvements upon Paradise Park, but have no individual  
4 interest in the Paradise Park.

## 5 **B. Board of Directors and 2020 Election Controversy**

### 6 **i. Structure of Board of Directors**

7 The PPMC Board of Directors is made up of five Directors. The Directors are  
8 elected annually on rotating and staggered two-years terms. Three Directors are  
9 elected in even numbered years, and two Directors are elected in odd numbered years.  
10 The annual elections take place through May and June of each year. The results are  
11 announced at the annual meeting of PPMC, which is held on the Saturday before the 4<sup>th</sup>  
12 of July each year.

### 13 **ii. Election Process Generally**

14 Annual Board of Director elections proceed as follows:

- 15 - On or before February 21<sup>st</sup> of each year, the current Board of Directors forms  
16 the Nominating Committee, consisting of one PPMC member selected by each Director.
- 17 - On or before the March board meeting, the Nominating Committee presents  
18 candidates for the upcoming board election. The Nominating Committee presents one  
19 candidate for each open position on the Board.
- 20 - At the April board meeting, any PPMC member may self-nominate for board  
21 candidacy, provided that member presents signatures from ten percent of the PPMC  
22 membership at the April board meeting.
- 23 - At least thirty days prior to the annual meeting (Saturday before July 4<sup>th</sup>)  
24 ballots containing the names of the candidates are distributed to the membership.
- 25 - The election itself is conducted and supervised by an Elections Committee of  
26 three PPMC members, selected by the Board.
- 27 - The results of the election are tabulated by the Elections Committee, and  
28

1 announced at the annual PPMC meeting. At the close of the annual meeting, the newly  
2 elected board members are installed and the newly comprised Board undertakes the  
3 governance of the corporation.

### 4 **iii. Lead-Up to the 2020 Board of Directors Election**

5 In February of 2020, the Board consisted of the following individuals: Verdie  
6 Polizzi, Kurt Likins, Mark Gienger, Joe Mayo, and Clora Johnston. Mark Gienger, Kurt  
7 Likins, and Clora Johnstons' terms would be ending at the 2020 annual meeting.

8 In February of 2020, the Board selected the nominating committee, consisting of  
9 Craig Little, Lynda Rogers, Helen Kuckens, Eddi Brown, and Sharon Simas. Helen  
10 Kuckens served as Chair of the Nominating Committee.

11 On March 11, 2020, the PPMC Manager (Steve Polizzi) notified the membership  
12 that the March 2020 board meeting would not be taking place due to the COVID  
13 pandemic.

14 On March 20, 2021, PPMC member Sam Cannon contacted the Board, and  
15 requested that his name be added as a self-nominated candidate. Verdie Polizzi  
16 passed this information on, and Mr. Cannon's name was added to the list of nominees.

17 On or around the beginning of April 2020, the Board published the list of  
18 nominees for the 2020 Board of Director elections. This information was published to  
19 the entire PPMC membership. Three new Directors would be chosen out of the  
20 following seven nominees:

- 21 - Harold Brown, Mark Gienger (running for re-election), Kurt Likins (running for  
22 re-election), Sam Cannon, Sevilla Granger, Dick Lovelace, and Bill Pardue.

23 On April 12, 2020, the PPMC Manager (Steve Polizzi) notified the membership  
24 that the April 2020 board meeting would not be taking place due to the COVID  
25 pandemic. The April board meeting would have been the time for Sam Cannon to  
26 present signatures to ratify his "self-nomination." However, due to the emergency  
27  
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1 circumstance surrounding the COVID pandemic – and simply a mistake – the Board did  
2 not realize the flaw in Mr. Cannon’s nomination.<sup>2</sup>

3 **iv. Conduct of the 2020 Board of Directors Election**

4 The Board of Directors election took place primarily via mail-in ballot in the  
5 months of May and June 2020. At the May 2020 board meeting, the Board selected the  
6 following individuals to serve on the Elections Committee: Winston Chavoor (committee  
7 chair), Carol Taylor, Alcinda Walters, and Denise Peterson.

8 On June 27, 2020, the PPMC Annual Meeting was held. At the meeting, the  
9 Elections Committee presented the results of the election.

10 7<sup>th</sup> place – 62 Votes – Mark Gienger

11 6<sup>th</sup> place – 86 Votes – Sam Cannon

12 5<sup>th</sup> place – 108 Votes – Bill Pardue

13 4<sup>th</sup> Place – 110 Votes – Kurt Likins

14 3<sup>rd</sup> Place – 120 Votes – Harold Brown

15 2<sup>nd</sup> Place – 126 Votes – Dick Lovelace

16 1<sup>st</sup> Place – 137 Votes – Sevilla Granger

17 Accordingly, Sevilla Granger, Dick Lovelace, and Harold Brown replaced  
18 outgoing board members Kurt Likins, Mark Gienger and Clora Johnston for the 2020-  
19 2021 Board of Directors.

20 At the conclusion of the annual meeting, the 2019-2020 Board changed over, the  
21 newly elected board members were installed, and the new 2020-2021 Board began its  
22 governance of the corporation.<sup>3</sup>

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25 <sup>2</sup> As set forth below, nomination committee Sharon Simas was aware of the problem with  
26 the Sam Cannon nomination but intentionally withheld this information as a tactic to prevent Mr. Cannon’s  
27 nomination from being legitimated. As an offer of proof, Ms. Simas is a close ally of the Plaintiffs’ group,  
but is not a named Plaintiff herein because her obvious wrongdoing regarding the Cannon nomination  
would undermine Plaintiffs claims.

28 <sup>3</sup> Plaintiffs’ allegation that the old board “refused to give up it’s seat” is demonstrably  
untrue. There is written and video evidence of the same. This is another allegation which Plaintiffs have  
made on “information and belief” as they seek to avoid being accused of perjury. The court should also



1           Therefore the 2020 Board was: Sevilla Granger, Dick Lovelace, Harold Brown,  
2 Verdie Polizzi, and Joe Mayo.

3                           **v. Sharon Simas Complains about Sam Cannon Nomination**

4           After the new board was seated, on or around July 3, 2020, Sharon Simas –  
5 previously a member of the nominating committee – contacted new board president  
6 Dick Lovelace. Ms. Simas reported to Mr. Lovelace that there had been a problem with  
7 the Sam Cannon nomination. Mr. Cannon’s nomination should not have been included  
8 on the list of candidates, because he did not present member signatures at the April  
9 board meeting, according to the self-nomination process in the bylaws. (Ms. Simas had  
10 actually nominated Mr. Lovelace to run for the board, and afterwards told him that he  
11 should be thankful for her groups’ support).

12           Mr. Lovelace interpreted Ms. Simas’ disclosure as an implicit threat – she was  
13 implying that Mr. Lovelace’s election was illegitimate, and that she could use that fact  
14 against him in the future. Therefore Mr. Lovelace sought legal counsel as to what to do  
15 in light of the, apparently, improper nomination.

16           On July 9, 2020 at the request of Board President Dick Lovelace, Verdie Polizzi  
17 spoke with corporate counsel Robert Bosso. Ms. Polizzi reported to the Board that she  
18 had received advice that the prior election was invalid, and that the election should be  
19 run again without the Sam Cannon nomination.

20           The board also received the same legal advice from other attorneys – notably,  
21 board-member Joe Mayo (an attorney licensed in Washington State) and professional  
22 colleagues of his. Additionally, a PPMC member John Manzini reached out to attorney  
23 Anne Olson, who has represented PPMC members against the corporation in other  
24 contexts. Ms. Olson reported that she agreed with the opinion rendered by Mr. Bosso,

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28 note that none of the new board members who were allegedly “dispossessed” are actually named  
Plaintiffs. By contrast, board members Dick Lovelace and Harold Brown support PPMC’s defense of this  
lawsuit.

1 that the election was invalid, and needed to be run again, with out the Sam Cannon  
2 nomination.

3 **vi. New Election is Held**

4 Based on the legal counsel he received, Mr. Lovelace, as President of the Board,  
5 determined to approach former president Kurt Likins. The current and prior presidents  
6 decided that the “old” (2019-2020) board would come back into power *solely for the*  
7 *purpose of conducting the re-election*. This information was communicated to PPMC  
8 Membership via “e-blast” in mid-July 2020 and discussed openly at the July Board  
9 meeting.

10 *Interestingly, at the July 2020 Board Meeting, Sharon Simas admitted that she*  
11 *knew about the problem with the Sam Cannon nomination before the first election, but*  
12 *intentionally withheld her concern, because she wanted to make sure that Mr. Cannon*  
13 *was not able to cure his nomination before the election.*

14 The same election committee ran the replacement election, which was  
15 conducted through August 2020.

16 On September 3, 2020, the election committee processed the election results,  
17 which were as follows:

18 6<sup>th</sup> place – 26 Votes – Mark Gienger

19 5<sup>th</sup> place – 104 Votes – Sevilla Granger

20 4<sup>th</sup> Place – 107 Votes – Bill Pardue

21 3<sup>rd</sup> Place – 150 Votes – Kurt Likins

22 2<sup>nd</sup> Place – 164 Votes – Harold Brown

23 1<sup>st</sup> Place – 246 Votes – Dick Lovelace

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1           Accordingly, the newly elected board members were Dick Lovelace, Harold  
2 Brown, and Kurt Likins (re-elected). Sevilla Granger was not elected to a Board position  
3 in the second election.<sup>4</sup>

4           Since September 3, 2020, the 2020-2021 Board of Directors has been Dick  
5 Lovelace, Harold Brown, Kurt Likins, Verdie Polizzi, and Joe Mayo. Since September 3,  
6 2020, until this lawsuit was filed, there have been no objections to the Board in its  
7 current composition. No party requested an audit of the September 2020 election  
8 results. The Board has been empowered to act and bind the corporation for over nine  
9 months, with no objection.

#### 10                           **vii. Upcoming June 2021 Election**

11           There is a new election for the Board being conducted through May and June  
12 2021. The results will be tabulated and announced at the annual meeting on July 3,  
13 2021. There are two board-members to be selected. The candidates for election are:  
14 Verdie Polizzi (re-election), Bill Pardue, Bill Eckard, George Turegano, Karyn Ryan, and  
15 Rick Lang.

### 16                           **C. Recall Petition Controversy**

#### 17                                   **i. Recall Process Under Bylaws**

18           According to the Bylaws, there is a process for recalling a board member via  
19 member petition. The process requires that the parties seeking the recall obtain  
20 signatures of (25%) of the membership in order to proceed with a recall election.  
21 Thereafter, if a majority of the members vote to recall the Director in question, then the  
22 director is immediately removed from office.

#### 23                                   **ii. Recall Situation Should Not be Subject of June 1, 2021 Trial**

24           As set forth in Defendants' Motion in Limine #3, the Recall Petitions should not  
25 be part of the scope of the upcoming trial on this matter. First, the recalls are moot, in

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28                                   <sup>4</sup> It is telling that, although Sevilla Granger is the one person who lost her board seat, she  
is not a named Plaintiff in this action – Plaintiffs have included her as an alleged “involuntary Plaintiff.”

1 that both recalled candidates' terms expire at the end of June 2021. Second, a recall  
2 petition is not an "election of director" under the bylaws, therefore, it is not subject to the  
3 expedited hearing process under Corporations Code section 7616. Third, there has  
4 been no exhaustion of the mandatory mediation process before any action is brought.

### 5 **iii. Recall Petitions Against Directors Polizzi and Mayo**

6 On or around July 15, 2020, the Board of Directors received recall petitions  
7 directed at Verdie Polizzi and Joe Mayo. This was in the middle of the controversy  
8 regarding the 2020 Board of Director Election being done over.<sup>5</sup>

9 There had only been one prior instance of a recall petition in PPMC history.  
10 Therefore, acting presidents Dick Lovelace and Kurt Likins derived a policy to confirm  
11 and process recall signatures according to what had been done for the prior recall  
12 petition.

13 According to the recall procedure, proponents of a recall have sixty-days from the  
14 date of filing of the petition to return the petitions with enough valid signatures.  
15 Thereafter, if enough valid signatures are collected, ballots are sent out to the members,  
16 and a majority vote suffices to remove a Director.

17 On or around September 15, 2020, the recall petitions were returned to PPMC  
18 offices with what purported to be enough signatures to affect recalls. Ninety-eight (98)  
19 valid signatures were required to process the recall for each petition. The petitions were  
20 forwarded to the elections committee to vet the signatures, according to board policy.

21 The petition to recall Verdie Polizzi originally had 101 signatures. Through the  
22 board vetting process, eleven (11) signatures were invalidated through a combination of  
23 members withdrawing their signatures, signatures being from suspended or terminated  
24 members (who do not have voting rights), and duplicate signatures. Therefore, the

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28 <sup>5</sup> Essentially, Plaintiffs' group has a problem with Directors Linkins, Polizzi, and Mayo.  
This matter is a coordinated effort to remove those particular individuals from the board. The recall  
petitions in question were presented by members of Plaintiffs group, including Sharon Simas.

1 recall for Verdie Polizzi did not have enough signatures to move forward to a vote. This  
2 determination was made, not by Ms. Polizzi herself, but separately by the members of  
3 the elections committee.

4 The petition to recall Joe Mayo originally had 114 signatures. After obtaining  
5 legal counsel regarding whether to invalidate certain signatures, the board moved  
6 forward with sending out recall ballots (finding 102 qualifying signatures). However, on  
7 or around November 9, 2020, counsel for Joe Mayo sent a letter to the Board, notifying  
8 the Board that Mr. Mayo was challenging the recall petition, and demanding mediation  
9 according to the provision in the bylaws. That ADR procedure is still ongoing, with the  
10 parties having retained Hon. Chris Cottle to conduct a mediation.

11 It should be noted that the recall issue is completely moot, as the board terms for  
12 the recalled members conclude at the end of June 2021. Additionally, the recall  
13 process, governed by the PPMC bylaws, is not subject to the expedited hearing process  
14 of Corporations Code section 7616.

#### 15 **IV. LEGAL ISSUES**

##### 16 **A. The June 1<sup>st</sup> Trial Should Be Continued**

##### 17 **i. Plaintiffs Failed to Exhaust the Bylaw Mediation Requirement**

18 The trial should not go forward before the parties submit to mediation. Plaintiffs  
19 have failed to exhaust the mediation requirement as set forth under the bylaws (See  
20 PPMC's Motion in Limine # 1).

##### 21 **ii. Because There is No Recent Election, the Expedited Hearing** 22 **Under Corporation Code Section 7616 Does Not Apply**

23 The trial should not go forward as an expedited hearing because there is no  
24 emergency resulting from a recent election under which PPMC's corporate power is  
25 being questioned (see PPMC's Motion in Limine #2).

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1                   **B. If the June 1<sup>st</sup> Trial Goes Forward, The Scope Should Be Limited**  
2 **to the 2020 Election**

3                   Plaintiffs are not entitled to an expedited trial on this matter. However, if the  
4 court moves forward with the trial, the scope should be limited to the 2020 Elections,  
5 and not the recall petitions (see PPMC’s Motion in Limine # 3).

6                   **C. There is No Basis for Relief Requested by Plaintiffs Because the**  
7 **Board Acted in Good Faith, in Reliance on Advice of Counsel.**

8                   Plaintiffs are complaining that the old board refused to give up its seat up on the  
9 results of the first 2020 election. This is demonstrably false, and Plaintiffs know it.  
10 What happened, is that the new board exercised its business judgment on reliance of  
11 counsel. Such actions are presumed to be valid.

12                   “In performing the duties of a director, a director shall be entitled to rely on  
13 information, opinions, reports, or statements, including financial statements and other  
14 financial data, in each case prepared or presented by any of the following...  
15 (2) Counsel, independent accountants or other persons as to matters which the director  
16 believes to be within such person's professional or expert competence.” (Cal. Corp.  
17 Code § 7231).

18                   The “business judgment rule” is a judicial policy of deference to the business  
19 judgment of corporate directors in the exercise of their broad discretion in making  
20 corporate decisions. (*Everest Investors 8 v. McNeil Partners* (2003) 8 Cal.Rptr.3d 31.)  
21 The business judgment rule sets up a presumption that directors' decisions are made in  
22 good faith. (*Biren v. Equality Emergency Medical Group, Inc.* (2002) 125 Cal.Rptr.2d  
23 325.) The general purpose of California's business judgment rule is to afford directors  
24 broad discretion in making corporate decisions and to allow these decisions to be made  
25 without judicial second-guessing in hindsight. (*F.D.I.C. v. Castetter*, (9th Circuit, 1999)  
26 184 F.3d 1040.)

27                   Here, the undisputed evidence is that the directors in question sought a legal  
28 opinion from their counsel. Such opinion stated that the election was invalid because of

1 the improper nomination of Sam Cannon. The Board had this legal opinion confirmed  
2 from other sources, including independent attorney Anne Oleson, who has represented  
3 parties *against* PPMC in the past. The Board was merely exercising their business  
4 judgment and relying on the advice of counsel. Such actions are presumed legitimate.  
5 Moreover, the result is objectively sensible. There was an undisputed problem with the  
6 election. A (potentially) decisive number of votes went to an invalid candidate.  
7 Therefore, it makes practical sense to re-run the election without the invalid candidate.  
8 Which is precisely what the board did.

9 Therefore, the Board's action, in holding the second 2020 election, was valid.

10 **V. CONCLUSION**

11 Plaintiffs have proceeded recklessly in an ill-conceived attempt to ambush their  
12 way onto control of the board. The court should vacate the trial date and set this matter  
13 for mediation. But if this matter moves forward, Defendant is confident that the  
14 evidence will come out in its favor.

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16  
17 Respectfully Submitted,

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19  
20 Date: May 19, 2021

*Aaron J. Mohamed*

21 BRERETON, MOHAMED, & TERRAZAS, LLP  
22 By: Aaron J. Mohamed, Esq.  
23 Attorneys for Defendant The Paradise Park  
24 Masonic Club  
25  
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27  
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