

1 ANDREW HARRIS WERBROCK, State Bar No. 304509  
2 ROBIN B. JOHANSEN, State Bar No. 79084  
3 ERIC LEE, State Bar No. 337815  
4 OLSON REMCHO, LLP  
5 1901 Harrison Street, Suite 1550  
6 Oakland, CA 94612  
7 Phone: (510) 346-6200  
8 Fax: (510) 574-7061  
9 Email: awerbrock@olsonremcho.com

10 Attorneys for Respondent  
11 County of San Mateo Board of Supervisors

12 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 COUNTY OF SAN MATEO

14 SHERIFF CHRISTINA CORPUS,

15 Petitioner,

16 vs.

17 COUNTY OF SAN MATEO BOARD OF  
18 SUPERVISORS; MARK CHURCH, in his official  
19 capacity as CHIEF ELECTIONS OFFICER &  
20 ASSESSOR; and DOES 1-10,

21 Respondents.

No.: 25-CIV-00244

Action Filed: January 10, 2025

**RESPONDENT COUNTY OF SAN MATEO  
BOARD OF SUPERVISORS' RESPONSE  
IN OPPOSITION TO PETITIONER'S  
EX PARTE APPLICATION**

Ex Parte Hearing:

Date: January 23, 2025  
Time: 1:30 p.m.  
Dept.: 28 (Courtroom 1)  
Judge: Hon. Nicole S. Healy

**NO FILING FEE  
CAL. GOV'T CODE § 6103**

**FILED**  
SAN MATEO COUNTY

JAN 23 2025

Clerk of the Superior Court  
By: *[Signature]*  
DEPUTY CLERK

1           Petitioner has filed this lawsuit seeking the “cancellation” of the March 4, 2025 Special  
2 Election in San Mateo County, where voters will, in a few weeks, get the chance to vote on  
3 Measure A. Ex Parte Application at 2. Nearly two weeks after filing the case, she now seeks ex parte  
4 relief to “advance the case management conference” and “to set briefing and trial schedules in advance  
5 of the March 4, 2025, election.” *Id.* at 1. Although counsel to Petitioner informed County Counsel in  
6 a short email nearly a week ago (January 17) that she would seek ex parte relief, she did not serve  
7 copies of her ex parte application until 2:42 p.m. yesterday. *See* Cal. R. Ct. 3.1206 (requiring party  
8 seeking ex parte relief to serve the application “at the first reasonable opportunity”).

9           The request should be denied.<sup>1</sup> The ex parte application fails to make the required  
10 “affirmative factual showing” why “irreparable harm, immediate danger,” or a statutory basis exists for  
11 granting ex parte relief. *Id.* R. 3.1202(c). To the contrary, granting ex parte relief, in a misguided  
12 attempt to “cancel” the election, would impose irreparable harm by disrupting the election process and  
13 denying the electorate their right to vote. Furthermore, there is no need for a trial because there is no  
14 factfinding or discovery necessary here. The Petition can and should be resolved on a regular timeline  
15 as a matter of law.

16           *First*, this Court should deny ex parte relief because it does nothing to advance  
17 Petitioner’s central goal of “canceling” the election, much less resolve this case. Petitioner never  
18 explains how a trial, no matter how quick, would provide this Court a lawful basis to cancel this  
19 election. In fact, Petitioner cites no case in which a court has ever canceled an election, never mind on  
20 the theories she has offered. Before pushing the parties into a trial—which, again, is not needed at all  
21 to resolve this case—Petitioner should have to explain how this tardy lawsuit makes sense in the first  
22 instance, when the election is less than six weeks away.

23           In fact, Petitioner has waited far too long to seek *any relief* regarding the election, and  
24 this Court can readily resolve this case on that basis. The Board of Supervisors took the first step

---

25 <sup>1</sup> Petitioner also requests that this Court designate the County as a Respondent. Petitioner had  
26 previously asked if the County would object if Petitioner were to amend the Petition to add the County  
27 to the caption. We informed Petitioner the County’s consent was unnecessary as Petitioner has the  
28 right to amend the complaint without anyone’s permission. Code Civ. Proc. § 472(a). Ex parte relief  
is not necessary here to avoid irreparable harm or immediate danger.

1 toward calling the Special Election in November 2024. Yet Petitioner waited close to *two months*  
2 before filing this lawsuit. We understand that counsel to Respondent Mark Church, San Mateo  
3 County’s chief elections officer, will inform the Court that the voter information guide and mail ballots  
4 have been finalized and are currently being printed, with printing expected to be completed by this  
5 Friday. Military and overseas ballots have already been sent to those voters, and the Registrar’s Office  
6 has already received some of their completed ballots. *See* Elec. Code §§ 300(b), 3114. If  
7 Respondent’s “trial” is held, as requested, on February 24, hundreds of thousands of voters will have  
8 likely already cast their ballot at that time, and cancelling the election would sow confusion among the  
9 public. It is too late to stop the process. A writ in favor of Petitioner would unequivocally violate state  
10 law by “substantially interfer[ing] with the conduct of the election.” Elec. Code § 13314(a)(2); *see*  
11 *Costa v. Superior Court*, 37 Cal. 4th 986, 1005 (2006) (courts generally review challenges to ballot  
12 measures after an election to avoid disrupting the electoral process); *Independent Energy Producers*  
13 *Ass’n v. McPherson*, 38 Cal. 4th 1020, 1029 (2006) (same). The answer is just as clear from the  
14 perspective of equity. By filing this case at the eleventh hour, Petitioner has slept on her rights. *See*  
15 *Boyer v. Cty. of Ventura*, 33 Cal. App. 5th 49, 58-59 (2019) (applying laches in an election case);  
16 *Finnie v. Town of Tiburon*, 199 Cal. App. 3d 1, 14 (1988) (same).

17           *Second*, any attempt by Petitioner to invalidate the measure because it is the product of  
18 alleged “bias” is both speculative and premature. Pre-election challenges of measures are generally  
19 disfavored and would not support the “cancellation” of the election. *See Costa*, 37 Cal. 4th at 1005;  
20 *McPherson*, 38 Cal. 4th at 1029. While, ultimately, Petitioner has not, and will never be able to  
21 establish bias, the issue is not yet ripe for disposition now and may never be. Voters may reject  
22 Measure A, rendering the claim moot. Even if voters enact the measure, the Board could choose not to  
23 proceed with a removal proceeding at all, as it is under no obligation to do so. And even if the Board  
24 does choose to proceed with a removal proceeding in the future, the two legislators whom Petitioner  
25 claims are biased might no longer be serving on the Board at that time, or the Board may ultimately  
26 adopt procedures that satisfy Petitioner’s purported concerns. Until a precise series of events  
27 materializes—and there is a possibility they never will—any purported claims about any ultimate act  
28

1 of removal are based on abstractions and conjecture. Accelerating review of this claim would only  
2 compound the problem.

3           *Third*, this Court should deny *ex parte* relief because, even if this Court could entertain  
4 this lawsuit, it is meritless as a matter of law. The first claim, that the Board of Supervisors  
5 “improperly calendared” the Special Election (*see* Ex Parte Application at 3) relies on three provisions:  
6 Elections Code sections 1415 and 9255 and Government Code section 34458. *See* Petition ¶ 12. None  
7 of them apply to scheduling county elections. As the plain text of each statute makes clear, they apply  
8 only to (1) cities and (2) a city and county (*i.e.*, San Francisco, the only consolidated city and county in  
9 the State). *See* Gov’t Code § 23638; *City & Cty. of S.F. v. Regents of Univ. of Cal.*, 7 Cal. 5th 536, 545  
10 n.2 (2019). The second claim—that the placement of the measure on the ballot was a “quasi-judicial”  
11 act that can be invalidated due to bias—is similarly doomed as a matter of law because even if  
12 Petitioner’s theory were relevant here, the placement of a measure on the ballot is fundamentally a  
13 *legislative*, not a quasi-judicial, act. Both claims in this case can and should be resolved solely on the  
14 law.


15           In sum, Petitioner has failed to offer a valid reason why this Court should rush this case  
16 let alone schedule a trial in a few weeks. Instead, the Board of Supervisors should first be given  
17 sufficient time to file a demurrer or otherwise explain why the petition should be denied as a matter of  
18 law, as the Court deserves the opportunity to rule on the legal issues presented by this case. The  
19 request for *ex parte* relief should be denied. However, if the Court does order an accelerated briefing  
20 schedule on the writ petition as requested by Petitioner, that schedule should not give Petitioner  
21 another opportunity to file an “opening brief,” Ex Parte Application at 3, as Petitioner already filed an  
22 opening brief when she filed the Petition. *See* Petitioner’s Memorandum of Points and Authorities in  
23 Support of Petition for Writ of Mandate.

1 Dated: January 23, 2025

Respectfully submitted,

2 OLSON REMCHO, LLP

3 

4 By:   
5 Andrew Harris Werbrock

6 Attorneys for Respondent County of San Mateo Board  
7 of Supervisors

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 **PROOF OF SERVICE**

2 I, the undersigned, declare under penalty of perjury that:

3 I am a citizen of the United States, over the age of 18, and not a party to the within  
4 cause of action. My business address is 1901 Harrison Street, Suite 1550, Oakland, CA 94612.

5 On January 23, 2025, I served a true copy of the following document(s):

6 **Respondent County of San Mateo Board of Supervisors'**  
7 **Response in Opposition to Petitioner's**  
8 **Ex Parte Application**

9 on the following party(ies) in said action:

10 Thomas P. Mazzucco  
11 Christopher R. Ulrich  
12 Nicholas C. Larson  
13 Miguel Mendez-Pintado  
14 Murphy, Pearson, Bradley & Feeney  
15 580 California Street, Suite 1100  
San Francisco, CA 94104  
Phone: (415) 788-1900  
Email: [TMazzucco@mpbf.com](mailto:TMazzucco@mpbf.com)  
[CUlrich@mpbf.com](mailto:CUlrich@mpbf.com)  
[NLarson@mpbf.com](mailto:NLarson@mpbf.com)  
[MMendezpintado@mpbf.com](mailto:MMendezpintado@mpbf.com)

*Attorneys for Petitioner  
Sheriff Christina Corpus*

16 John D. Nibbelin  
17 County Attorney  
18 Craig N. Baumgartner  
19 Deputy County Attorney  
20 San Mateo County Counsel's Office,  
21 500 County Center, 4th Floor  
Redwood City, CA 94063  
Phone: 650-363-4250  
Email: [jnibbelin@smcgov.org](mailto:jnibbelin@smcgov.org)  
[cbaumgartner@smcgov.org](mailto:cbaumgartner@smcgov.org)

*Attorneys for Respondent Chief Elections  
Officer & Assessor-County Clerk-Recorder  
Mark Church*

- 22  **BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed  
envelope or package addressed to the person(s) at the address above and
- 23  depositing the sealed envelope with the United States Postal Service, with  
the postage fully prepaid.
- 24  placing the sealed envelope for collection and mailing, following our  
25 ordinary business practices. I am readily familiar with the business's  
26 practice for collecting and processing correspondence for mailing. On  
27 the same day that correspondence is placed for collection and mailing, it  
is deposited in the ordinary course of business with the United States  
Postal Service, located in Oakland, California, in a sealed envelope with  
postage fully prepaid.

- 1  **BY OVERNIGHT DELIVERY:** By enclosing the document(s) in a sealed  
2 envelope or package provided by an overnight delivery carrier and addressed to  
3 the persons at the addresses listed. I placed the sealed envelope or package for  
collection and overnight delivery at an office or a regularly utilized drop box of  
the overnight delivery carrier.
- 4  **BY MESSENGER SERVICE:** By placing the document(s) in a sealed envelope  
5 or package addressed to the persons at the addresses listed and providing them to  
a professional messenger service for service.
- 6  **BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons  
7 at the fax numbers listed based on an agreement of the parties to accept service by  
fax transmission. No error was reported by the fax machine used. A copy of the  
fax transmission is maintained in our files.
- 8  **BY EMAIL TRANSMISSION:** By emailing the document(s) to the persons  
9 listed above.

10 I declare, under penalty of perjury, that the foregoing is true and correct. Executed on  
11 January 23, 2025, in Gardnerville, Nevada.

12  
13 *Nina Leathley*  
14 Nina Leathley

15 (2,036,504)