



PLAINTIFF/PETITIONER: Pacifica Foundation	CASE NUMBER:
DEFENDANT/RESPONDENT: New Day Pacifica, et al	21 BBCV00642

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

*(If more space is needed, check this box and attach a page designated as Attachment 4b.)*

5. **Jury or nonjury trial**

The party or parties request  a jury trial  a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

This is a matter in equity

6. **Trial date**

a.  The trial has been set for *(date)*:

b.  No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:

See Atthmt 6b

c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

a.  days *(specify number)*: 2-4 days.

b.  hours (short causes) *(specify)*: complainants other causes of action are sustained. If not, 8--9 days

8. **Trial representation (to be answered for each party)**

The party or parties will be represented at trial  by the attorney or party listed in the caption  by the following:

a. Attorney: By attorneys listed in caption and an additional counsel for New Day Pacifica (currently unrepresented)

b. Firm: This matter is entitled to preference but until additional counsel is obtained cross-complainants are hesitant to request it.

c. Address:

d. Telephone number:

f. Fax number:

e. E-mail address:

g. Party represented:

Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference *(specify code section)*: California Code of Civil Procedure §36(a) (Age & Health of Litigant)

10. **Alternative dispute resolution (ADR)**

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 of the California Rules of Court for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel  has  has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party  has  has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation (if available).**

(1)  This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2)  Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3)  This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:

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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form <b>are willing</b> to participate in the following ADR processes ( <i>check all that apply</i> ):	If the party or parties completing this form in the case <b>have agreed</b> to participate in or have already completed an ADR process or processes, indicate the status of the processes ( <i>attach a copy of the parties' ADR stipulation</i> ):
(1) Mediation	<input type="checkbox"/>	<input type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for ( <i>date</i> ): <input type="checkbox"/> Agreed to complete mediation by ( <i>date</i> ): <input type="checkbox"/> Mediation completed on ( <i>date</i> ):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for ( <i>date</i> ): <input type="checkbox"/> Agreed to complete settlement conference by ( <i>date</i> ): <input type="checkbox"/> Settlement conference completed on ( <i>date</i> ):
(3) Neutral evaluation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for ( <i>date</i> ): <input type="checkbox"/> Agreed to complete neutral evaluation by ( <i>date</i> ): <input type="checkbox"/> Neutral evaluation completed on ( <i>date</i> ):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for ( <i>date</i> ): <input type="checkbox"/> Agreed to complete judicial arbitration by ( <i>date</i> ): <input type="checkbox"/> Judicial arbitration completed on ( <i>date</i> ):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for ( <i>date</i> ): <input type="checkbox"/> Agreed to complete private arbitration by ( <i>date</i> ): <input type="checkbox"/> Private arbitration completed on ( <i>date</i> ):
(6) Other ( <i>specify</i> ):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for ( <i>date</i> ): <input type="checkbox"/> Agreed to complete ADR session by ( <i>date</i> ): <input type="checkbox"/> ADR completed on ( <i>date</i> ):

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**11. Insurance**

- a.  Insurance carrier, if any, for party filing this statement (*name*): N/A
- b. Reservation of rights:  Yes  No
- c.  Coverage issues will significantly affect resolution of this case (*explain*):

**12. Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

Bankruptcy  Other (*specify*):

Status:

**13. Related cases, consolidation, and coordination**

- a.  There are companion, underlying, or related cases.
  - (1) Name of case:
  - (2) Name of court:
  - (3) Case number:
  - (4) Status:
- Additional cases are described in Attachment 13a.
- b.  A motion to  consolidate  coordinate will be filed by (*name party*):

**14. Bifurcation**

The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

**15. Other motions**

The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):  
 Unknown

**16. Discovery**

- a.  The party or parties have completed all discovery.
- b.  The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Intervenors & Cross-Complainant	Written Discovery	120 Days Before Trial
Intervenors & Cross-Complainant	Oral Depositions	120 Days Before Trial

c.  The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

Re: 5th C/A: Voter rolls identification of each staff voter's log in info, positions and verification of qualifications to vote  
 Identification & revelation of all public and private communications among management and with staff regarding election at issue, etc.

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**17. Economic litigation**

- a.  This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b.  This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

**18. Other issues**

- The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

**19. Meet and confer**

- a.  The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):  
The parties have begun to meet re settlement. It is hoped that if the parties can settle, that they will not have to deal with the discovery and other legal matters involved in the matter. However the parties will continue to meet to discuss these matters.
- b.  After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): 2

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: 6-26-24

Kent Vallette on Behalf of Def's, Cross-Complnts& Intrvnr  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF PARTY OR ATTORNEY)

ss// Kent Vallette  
(TYPE OR PRINT NAME)

▶   
(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.

**ATTACHMENT TO CASE MANAGEMENT STATEMENT  
PACIFICA VS. NEW DAY PACIFICA, ET AL  
Case No. 21 BBCV00642**

The major issue in this case grows out of a referendum to Amend the Bylaws of the Pacifica Foundation. There was a member vote to determine whether the Bylaws proposed by New Day Pacifica would be adopted. Pacifica has two classes of members: the listener class and the staff class. Taken together, the entire membership voted 55% to 44% (6817 – 5459) to pass the amendments. The listener class passed the proposed amendments by 56% to 44% (6639 – 5204 = a 1435 vote margin), however the votes attributed to the staff class were 59% to 40% to (255 -178 = a 77 vote margin) . The court has ruled following motions for summary adjudication of issues both classes have to vote affirmatively to change the bylaws if the amended bylaws are to go into effect. that Whether the New Day Pacifica Bylaw Referendum and Election of Transition of Officers passed or not.

ISSUES REMAINING:

1. The court must determine whether the voters who voted as staff were qualified, according to the Pacifica bylaws, to vote as staff. New Day Pacifica contends that they were not and that therefore all or a portion of said votes must be disregarded.
2. In addition, whether the WBAI vote was “puffed” by adding unqualified voters to the staff roster.
3. The Court must determine whether the Staff vote at WBAI was so tainted by voter intimidation by management; and by management’s falsehoods and misrepresentations about the content and effects of the proposed amendments that said vote should not be counted. Evidence of this tainting that there was an implausible 99%-1% vote.
4. Whether Corp. Code §6338 allows the use of the Pacifica mailing list not only to solicit funds to solicit votes (and to inform voters of the issues and candidates), but also to protect that vote once the election has occurred, and one side refuses to consent to the results.
  - a. If such fundraising is not allowed, then the majority in control can always deny a win, use the corporate funds to file a lawsuit, and deny the other side any means of raising funds to defend the vote. In other words, all management has to do is 1) deny an adverse vote won; 2) refuse to recognize the vote; 3) file litigation against the other side; and 4) deny the other side the means to raise funds to defend the vote. Defendants contend this is exactly what happened in this case.
8. Whether Pacifica legally revoked the votes for 4 Candidates in the recent KPFK Local Station Board election per §5513(d). According to the Final Election Report the decision to revoke the votes for the candidates was made after the votes were in. The report said that this post-election “disqualification” was based on the fact that a postcard utilizing the Pacifica mailing list both

Attachment 4b

Case Management Statement by New Day Pacifica, Jan Goodman, et al  
Pacifica vs. New Day Pacifica

endorsed the candidates and also asked for donations to fund legal representation in this lawsuit by Pacifica to invalidate the majority vote in favor of the referendum. Issues relating to due process because some similarly situated candidates were disqualified and others were not.

9. The other issues involved in this case, include Breach of Fiduciary Duty and. Damages, but these are all secondary to the above issues.