

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION FIVE

Mandell-Brown v. Novo Nordisk, Inc. et al.

Mandell-Brown v. Novo Nordisk, Inc. et al. · No. B326147 · Decided April 4, 2025

SUMMARY

The California Court of Appeal affirmed judgments granting Novo Nordisk, Inc. and a co-defendant summary judgment against Melissa Mandell-Brown on employment-related claims. The court held that, under Code of Civil Procedure section 437c, subdivision (b)(3), the trial court had discretion to grant the motion based on the plaintiff's failure to file an opposing separate statement, particularly given the complexity of the motion and multiple continuances. The opinion was modified on April 4, 2025, to replace “deny” with “grant” on page 8, with no change to the judgment.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division Five
WRITING FOR THE COURT	Kim (D.), J.; Baker, Acting P. J.; Moor, J.
JURISDICTION	California Court of Appeal, Second Appellate District, Division Five
DECIDED	April 4, 2025
DOCKET	B326147
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from judgments entered after the trial court granted defendants' motion for summary judgment on plaintiff's Fair Employment and Housing Act, Labor Code, contract, wrongful termination, and related claims. Plaintiff had filed no opposition, separate statement, or appearance at the continued summary judgment hearing.
STANDARD OF REVIEW	Summary judgment is generally reviewed de novo, but a trial court's decision to grant summary judgment because the opposing party failed to comply with the separate-statement requirements is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published
PARTIES	Melissa Mandell-Brown v. Novo Nordisk, Inc., Zamaneh Zamanian

TOPICS

summary judgment

civil procedure

standard of review

appellate procedure

employment discrimination

PRACTICE AREAS

civil procedure

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employment law

civil rights

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by granting defendants' motion for summary judgment based on plaintiff's failure to file the separate statement required by Code of Civil Procedure section 437c, subdivision (b)(3).
2. Whether the trial court was required to conduct a detailed prima facie review of defendants' supporting evidence and determine whether defendants met their initial burden before granting summary judgment in the absence of an opposing separate statement.
3. Whether the trial court abused its discretion under the circumstances, including the complexity of the motion and plaintiff's failure to oppose it after receiving two continuances.

HOLDINGS

1. Under Code of Civil Procedure section 437c, subdivision (b)(3), a trial court has discretion to grant a defense motion for summary judgment when the opposing party fails to submit the required separate statement.
2. When a plaintiff opposing a defense motion for summary judgment fails to file a separate statement and the moving papers are not facially deficient, the trial court may grant the motion without first undertaking a detailed prima facie analysis of the supporting evidence as to each element of each claim.
3. The trial court did not abuse its discretion by granting defendants' motion after plaintiff failed to oppose it, failed to file the required separate statement, failed to appear, and failed to seek further relief after receiving two continuances.

KEY QUOTATIONS

“Separate statements are “required, not discretionary, on the part of each party, and the statutory language makes the failure to comply with this requirement sufficient grounds to grant the motion.”” (5)

“Thus, if a plaintiff opposing summary judgment fails to file a separate statement, and the trial court reviews the moving papers and concludes the motion is not deficient on its face, it has discretion under subdivision (b) (3) to deny the motion, without first undertaking a detailed analysis of the supporting evidence to determine if a prima facie showing has been made as to one or more of the elements of each claim.” (7-8)

FACTUAL BACKGROUND

Plaintiff asserted employment claims including FEHA discrimination, sexual harassment, retaliation, failure to accommodate, failure to engage in the interactive process, Labor Code whistleblower retaliation, breach of contract, wrongful termination, and intentional infliction of emotional distress. Defendants moved for summary judgment and supported the motion with a separate statement of 161 undisputed facts, discovery exhibits, and

witness declarations concerning nondiscriminatory and nonretaliatory reasons for eliminating plaintiff's position. Plaintiff did not oppose the motion despite receiving two continuances, and she neither filed a separate statement nor appeared at the continued hearing.

PROCEDURAL HISTORY

Plaintiff filed a complaint asserting 16 causes of action. Defendants moved for summary judgment or, alternatively, summary adjudication, supported by a separate statement containing 161 asserted undisputed facts and extensive testimonial and documentary evidence. The trial court granted plaintiff two continuances, but plaintiff still filed no opposition or separate statement and did not appear at the continued hearing. The court granted the motion and entered two judgments, which plaintiff timely appealed.

DISPOSITION

affirmed

CASES CITED

- Merrill v. Navegar, Inc. (2001) 26 Cal.4th 465, 476
- Parkview Villas Assn., Inc. v. State Farm Fire & Casualty Co. (2005) 133 Cal.App.4th 1197, 1208, 1210
- North Coast Business Park v. Nielsen Construction Co. (1993) 17 Cal.App.4th 22, 31-32
- United Community Church v. Garcin (1991) 231 Cal.App.3d 327, 335
- Oldcastle Precast, Inc. v. Lumbermens Mutual Casualty Co. (2009) 170 Cal.App.4th 554, 568
- Batarse v. Service Employees Internat. Union, Local 1000 (2012) 209 Cal.App.4th 820, 831-833
- Rush v. White Corp. (2017) 13 Cal.App.5th 1086, 1097
- Security Pacific Nat. Bank v. Bradley (1992) 4 Cal.App.4th 89, 94
- Thatcher v. Lucky Stores, Inc. (2000) 79 Cal.App.4th 1081, 1086