**RICKY L. STEWART et al., Plaintiffs and Appellants,
v.
COUNTY OF SANTA CLARA et al., Defendants and Respondents.**

[No. H043765.](https://scholar.google.com/scholar?scidkt=17232701634949697546&as_sdt=2&hl=en)

**Court of Appeals of California, Sixth District.**

Filed December 13, 2018.

Appeal from the Santa Clara County, Superior Court No. 1-13-CV257821.

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

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BAMATTRE-MANOUKIAN, J.

This case arises out of the March 2013 eviction of the former owner and three sets of tenants from their homes. Fred F. Farahani, had lost title to 1650 Pomona Avenue, San Jose (the property) through foreclosure in January 2013. Farahani's tenants were Ricky L. Stewart, Julie A. Stewart, and Seth D. Stewart (collectively the Stewarts); Paulette S. Whelan; and Alex B. Ablitz.

After the foreclosure, the new owner, Ronald A. Floria, obtained an unlawful detainer judgment against Farahani. Farahani's tenants were not named in the suit or in the judgment, and they asserted they had no knowledge of either. The Sheriff of Santa Clara County (Sheriff) thereafter evicted Farahani and his tenants.

Farahani's tenants (collectively plaintiffs) filed suit against Floria, the Sheriff, and the County of Santa Clara (County). The Sheriff and the County (collectively defendants) filed a motion for summary judgment, or in the alternative, a motion for summary adjudication of claims. The court granted defendants' motion for summary judgment, finding that (1) the Sheriff had acted properly under the law in serving the eviction notice and thereafter enforcing the writ of execution to evict the property's occupants, and (2) defendants were in any event statutorily immune from liability. Plaintiffs appeal from the judgment entered on that order.

Plaintiffs argue on appeal that the trial court erred. They assert that their respective occupancies of the property were protected by state and federal law. They contend that although a sheriff or other ministerial officer is empowered under Code of Civil Procedure section 262.1[[1]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "%5B1%5D) to execute writs that are "regular on their face," any such regularity here was belied by the fact that when the Sheriff proceeded to evict the occupants of the Property, the Sheriff became aware there were occupants of separate rental units, whose identities and units were not described in the writ of possession. Plaintiffs contend they had resided in separate "premises" from those occupied by Farahani, and because the writ of possession did not expressly include plaintiffs' rental living units, eviction against plaintiffs was improper.

Based upon our de novo review of the trial court's summary judgment order, we conclude there was no error. We will therefore affirm the judgment entered in favor of defendants.

**I. FACTUAL BACKGROUND**

The underlying facts in this case, as developed in the papers filed below in support of and in opposition to defendants' motion for summary judgment, are largely undisputed and are presented below.

**A. Property and Parties**

The property consists of a parcel with a single street address that is approximately three-quarters of an acre in size with a large Victorian home on the parcel. Farahani formerly owned the property. In 2007, he encumbered it with a mortgage in favor of Floria. Farahani defaulted on his loan from Floria, and in January 2013, Floria acquired title to the property at a trustee's sale following nonjudicial foreclosure.

The Stewarts had resided on the second floor of the Victorian home for approximately five and one-half years and had a separate, lockable entrance. The Stewarts accessed their living areas by a common staircase.

Ablitz and his niece had also lived on the second floor of the Victorian home in two rooms with separate, lockable entrances. Ablitz's niece accessed her room by a common staircase also used by the Stewarts, and Ablitz accessed his room by a separate staircase in the back of the house. They had lived there for approximately five years.

Whelan lived in her travel trailer which was stationed behind the Victorian home. She had access to a bathroom and kitchen area inside the house. She had lived there for approximately six years.

Plaintiffs paid rent to Farahani pursuant to their respective living arrangements on the property.

**B. Unlawful Detainer**

Farahani continued to remain in possession of the property after Floria acquired it through foreclosure in January 2013.[[2]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "%5B2%5D) Floria accordingly caused to be served upon Farahani on or about January 31 a three-day notice to quit and deliver possession of the property. On February 5, Floria filed a complaint for unlawful detainer, naming Farahani as defendant. The trial court thereafter on or about March 13 entered judgment in favor of Floria, awarding him possession of the property.

**C. Eviction — March 27, 2013**

On March 13, the court issued a writ of possession to enforce the unlawful detainer judgment, naming Farahani as judgment debtor. It was received by the Sheriff on March 14. The Sheriff then prepared for service two forms, namely, a five-day notice of eviction form and a claim of right to possession form.

On March 14, Robert Vrscaj, a legal process officer employed by the Sheriff, traveled to the property to serve the two forms. Deputy Vrscaj observed that the property was surrounded by four walls and the front entrance was enclosed by a seven- to eight-foot tall solid gate. The home was not visible from the sidewalk. The property had one mailbox. From Deputy Vrscaj's observation of the mailbox, it did not appear there were separate residences existing on the property. Deputy Vrscaj was not able to gain access to the property, and no one responded at the gate to permit his entry.[[3]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "%5B3%5D) He therefore posted the notice of eviction and the blank claim of right to possession forms on the front gate "by taping [them] firmly to the gate in plain view of anyone who would subsequently enter or exit the property." After returning to the office, Deputy Vrscaj mailed copies of the notice of eviction and blank claim of right to possession forms to Farahani at the property address.

On March 19, the Sheriff received a claim of right to possession filed by Farahani, as conservator, on behalf of his adult disabled son, David Farahani (David), alleging that David was not a tenant but had resided on the property with his parents since 2009. There were no such claims filed by anyone else asserting a right to possession of the property.

On March 27, the Sheriff received a certified copy of the minutes reflecting the court's denial of David's claim of right to possession and ordering the immediate enforcement of the writ of possession. The Sheriff proceeded to evict all occupants of the property on March 27. At the time the eviction was carried out, the Sheriff was presented with no written claims of right to possession.

**D. Plaintiffs' Involvement in Eviction**

As recited in their opposition filed below, plaintiffs had no knowledge of the unlawful detainer proceeding involving their landlord, Farahani, at any time prior to their eviction. They claimed that Floria had been fully aware that plaintiffs were tenants residing in separate units of the property at the time he commenced unlawful detainer proceedings against Farahani. Plaintiffs were never served by Floria with any notices, such as notices to quit or termination of the tenancies for the property. Likewise, they did not observe any notice of eviction posted on the property, nor were they otherwise aware of such posting.

Plaintiffs first became aware of the eviction proceedings on March 27, when the Sheriff entered the property and advised them that they would have to leave their homes. At the time, each of the plaintiffs protested that they were living at the property under their respective rental arrangements with Farahani.

**II. PROCEDURAL BACKGROUND**

**A. Complaint**

Plaintiffs filed suit against Floria,[[4]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "%5B4%5D) the Sheriff, and the County on December 16, alleging six causes of action: (1) wrongful eviction; (2) intentional infliction of emotional distress; (3) negligent infliction of emotional distress; (4) abuse of process; (5) wrongful death of Julie A. Stewart; and (6) conversion.

Plaintiffs allege that the claims asserted in the complaint arose out of the intentional and negligent acts of defendants in evicting plaintiffs from their separate residential living units on the property without prior notice or due process of law. Plaintiffs lived for a period of years in separate rental housing units on the property, with the Stewarts and Ablitz living in the large Victorian home and Whelan living in her travel trailer.

In January, Floria concluded foreclosure proceedings through a trustee's sale, thereby becoming the owner of the property. On or about February 1, Floria caused a Three-Day Notice to Quit to be served upon the former owner of the property, Farahani. Floria did not serve any such notice on plaintiffs. He then brought an unlawful detainer suit against Farahani. Plaintiffs allege that, at the time, Floria was aware there were tenants residing on the property but "completely disregarded" them.

Floria obtained a judgment in the unlawful detainer action in March. He then procured from the court a writ of execution. The Sheriff posted a Five-Day Notice to Quit on the perimeter of the property, but plaintiffs were unaware of the posting prior to their evictions. After that posting, Farahani, on behalf of his disabled son, David, presented a claim of right to possession; the court denied that claim. On March 27, Floria induced the Sheriff to evict all persons located on the property regardless of their status as tenants residing in separate units on the property and "without regard to [plaintiffs'] vociferous protests and assertion of their rights to possession."

In the first cause of action for wrongful eviction, plaintiffs alleged that Floria failed to provide them with any notices whatsoever before they were evicted, in violation of state and federal law. Floria was aware at all times when he was seeking possession that Farahani had tenants living in separate units on the property, but Floria ignored plaintiffs' presence. Floria's acts in violation of various statutes resulted in plaintiffs' being wrongfully evicted from their homes, causing them damage. Plaintiffs allege that the Sheriff and the County were precluded from removing anyone who claimed a right to possession before the unlawful detainer action was commenced if they had not been served with a summons, complaint and prejudgment claim of right to possession forms as required by law. There was no service upon anyone of any prejudgment claim of right to possession forms in the unlawful detainer action, and the Sheriff was aware of this fact at the time of the eviction. Plaintiffs protested to the Sheriff at the time of the eviction that they had no awareness of the unlawful detainer action and had been served with no notices concerning it. Plaintiffs allege that the Sheriff ignored statutory requirements and summarily removed plaintiffs.

**B. Summary Judgment**

In August 2015, the Sheriff and the County moved for summary judgment, or, in the alternative for summary adjudication (summary judgment motion, or motion). Defendants contended there was no triable issue of fact supporting plaintiffs' claims because the Sheriff had complied with the statutory procedures for enforcing judgments of eviction and the Sheriff was in any event immune from liability. Plaintiffs opposed the motion.

The court granted summary judgment on October 30, 2015, concluding there were no triable issues of material fact and defendants were entitled to judgment. The court found that (1) the Sheriff had properly performed its statutory duties in serving the eviction notice and form claim of right to possession and had thereafter properly enforced the writ of possession after having received no executed claims of right to possession (other than David's, which had been denied), and (2) the Sheriff and County were immune from liability by statute, the order of the superior court (the writ of possession) appearing to have been regular and valid on its face.[[5]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "%5B5%5D) A judgment was entered in favor of defendants on the summary judgment order on March 7, 2016. Plaintiffs filed a timely notice of appeal.

**III. DISCUSSION**

**A. Summary Judgment and Standard of Review**

"The purpose of the law of summary judgment is to provide courts with a mechanism to cut through the parties' pleadings in order to determine whether, despite their allegations, trial is in fact necessary to resolve their dispute." ([*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 843 (*Aguilar*)](https://scholar.google.com/scholar_case?case=12866553377878497947&hl=en&as_sdt=2006).) As such, the summary judgment statute, section 437c, "provides a particularly suitable means to test the sufficiency of the plaintiff's prima facie case and/or of the defendant's [defense]." ([*Caldwell v. Paramount Unified School Dist.* (1995) 41 Cal.App.4th 189, 203,](https://scholar.google.com/scholar_case?case=119462115755682578&hl=en&as_sdt=2006) fn. omitted.)

The moving party "bears the burden of persuasion that there is no triable issue of material fact and that he is entitled to judgment as a matter of law." ([*Aguilar, supra,*25 Cal.4th at p. 850,](https://scholar.google.com/scholar_case?case=12866553377878497947&hl=en&as_sdt=2006) fn. omitted.) A defendant moving for summary judgment must "`show[ ] that one or more elements of the cause of action . . . cannot be established' by the plaintiff." (*Id.* at p. 853, quoting § 437c, subd. (o)(2).) A defendant meets its burden by conclusively negating an essential element of the plaintiff's claim. (*[Guz v. Bechtel National, Inc.](https://scholar.google.com/scholar_case?case=9927157615128210379&hl=en&as_sdt=2006)*[(2000) 24 Cal.4th 317, 334](https://scholar.google.com/scholar_case?case=9927157615128210379&hl=en&as_sdt=2006).) Alternatively, a defendant meets its burden by submitting evidence "that the plaintiff does not possess, and cannot reasonably obtain, needed evidence" supporting an essential element of its claim. ([*Aguilar, supra,* at p. 855](https://scholar.google.com/scholar_case?case=12866553377878497947&hl=en&as_sdt=2006); see also *[Saelzler v. Advanced Group 400](https://scholar.google.com/scholar_case?case=16746860850616453644&hl=en&as_sdt=2006)*[(2001) 25 Cal.4th 763, 780](https://scholar.google.com/scholar_case?case=16746860850616453644&hl=en&as_sdt=2006).)

Since summary judgment motions involve pure questions of law, we review independently the granting of summary judgment to ascertain whether there is a triable issue of material fact justifying the reinstatement of the action. ([*Wiener v. Southcoast Childcare Centers, Inc.* (2004) 32 Cal.4th 1138, 1142](https://scholar.google.com/scholar_case?case=853100068516795439&hl=en&as_sdt=2006).) In doing so, we "consider[] all of the evidence the parties offered in connection with the motion (except that which the court properly excluded) and the uncontradicted inferences the evidence reasonably supports. [Citation.]" ([*Merrill v. Navegar, Inc.* (2001) 26 Cal.4th 465, 476](https://scholar.google.com/scholar_case?case=17214429197270120189&hl=en&as_sdt=2006).) We need not defer to the trial court and are not bound by the reasons in its summary judgment ruling; we review the ruling of the trial court, not its rationale. ([*Kids' Universe v. In2Labs* (2002) 95 Cal.App.4th 870, 878](https://scholar.google.com/scholar_case?case=9639666210746398783&hl=en&as_sdt=2006).)

**B. Summary Adjudication of Wrongful Eviction Claim**

***1. Applicable Law***

Evaluating the merits of plaintiffs' wrongful eviction claim against defendants requires a review of (1) the statutory procedures for eviction proceedings, (2) statutes governing service of process associated with eviction proceedings, and (3) principles of statutory immunity applicable to officials serving process in connection with such proceedings.

The summary proceeding of unlawful detainer is defined in section 1161 et seq. The essential defendants in the unlawful detainer action are "the tenant of the premises and subtenant, if there be one, in the actual occupation of the premises when the complaint is filed." (§ 1164.) After a trial, if the jury (or the court, if tried without a jury) determines the cause in the plaintiff's favor, he or she shall receive judgment for possession of the premises. (§ 1174, subd. (a).) The judgment awarding possession to the plaintiff, however, does not automatically oust the tenant from the premises; the plaintiff must execute on the judgment through writ of possession procedures. (Friedman et al., Cal. Practice Guide: Landlord-Tenant (The Rutter Group 2017) ¶ 9:308; see also *[Bedi v. McMullan](https://scholar.google.com/scholar_case?case=4695875944469443398&hl=en&as_sdt=2006)*[(1984) 160 Cal.App.3d 272, 276](https://scholar.google.com/scholar_case?case=4695875944469443398&hl=en&as_sdt=2006) ["judgment only establishes [the plaintiff's] entitlement to possession"; legal process through writ of possession is the means by which the plaintiff obtains actual possession].)

If the plaintiff prevails in an unlawful detainer action and receives judgment for possession, upon the plaintiff's request, "a writ of execution [writ of possession] shall be issued *immediately* by the court." (§ 1170.5, subd. (a), italics added.) After entry of such judgment and upon such application, the clerk of the court is required to issue a writ of possession which "shall be directed to the levying officer in the county where the judgment is to be enforced." (§ 712.010.) The unlawful detainer writ of possession must include, inter alia, a description of the property, and a statement that if the premises are not vacated within five days of service of the writ upon the occupant — or if it is posted, within five days of service upon the judgment debtor — the levying officer will proceed forthwith to remove the occupants and place the plaintiff in possession. (§ 715.010, subd. (b)(1),(2).)

Once the writ of possession is issued by the clerk and delivered to the levying officer, that "levying officer *shall* execute the writ in the manner prescribed by law." (§ 712.030, subd. (a), italics added; see also [*Lyons v. Santa Barbara County Sheriff's Office* (2014) 231 Cal.App.4th 1499, 1503 (*Lyons*)](https://scholar.google.com/scholar_case?case=7886246313391848018&hl=en&as_sdt=2006) [after issuance of writ, "the sheriff is statutorily required to levy on it"].) The levying officer (i.e., sheriff) is required to serve the writ on one occupant of the property. (§ 715.020, subd. (a).) If the sheriff is unable to effect personal service on the occupant, he or she is required to post a copy of the writ in a conspicuous place on the property and serve a copy (either personally or by mail) upon the judgment debtor. (*Id.,* subd. (b).) When the sheriff serves or posts the writ of possession, he or she is, in general, required to serve or post a form for a postjudgment claim of right to possession. (§ 715.010, subd. (c).)[[6]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "%5B6%5D)

Occupants of the property not named in the writ of possession who claim a right to possession that accrued on or before the date of the commencement of the unlawful detainer action may formally challenge enforcement of the judgment (i.e., the eviction) by filing a postjudgment claim of right to possession. (§ 1174.3, subd. (a)(1);[[7]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "%5B7%5D) see also Friedman et al., Cal. Practice Guide: Landlord-Tenant, *supra,* ¶ 9:521.) This is the statutory means by which an occupant not named in the unlawful detainer suit or judgment may assert his or her rights to prevent that occupant's eviction. (See [*Cardenas v. Noren* (1991) 235 Cal.App.3d 1344, 1350 (*Cardenas*)](https://scholar.google.com/scholar_case?case=18099995341939224334&hl=en&as_sdt=2006) [unnamed occupant, "before eviction . . . could have protected himself by presenting a claim of right to possession" under § 1174.3].)

A sheriff has statutory immunity for actions taken in execution of "process and orders regular on their face," even if there was a defect in the underlying proceedings. (§ 262.1;[[8]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "%5B8%5D) see also Gov. Code, § 820.4 [no liability for public employee's "act or omission, exercising due care, in the execution or enforcement of any law"].) As the California Supreme Court has explained: "It is [the sheriff's] duty to execute the orders of the court unless they are patently irregular and void. [¶] In determining whether process and orders are `regular on their face' so far as the liability of such an officer is concerned, the following statement . . . is pertinent: `When we speak of process "valid on its face," in considering whether it is sufficient to protect an officer, we do not mean that its validity is to be determined upon the basis of scrutiny by a trained legal mind; nor is it to be judged in the light of facts outside its provisions which the officer may know. [Citations.] Unless there is a clear absence of jurisdiction on the part of the court or magistrate issuing the process, it is sufficient if upon its face it appears to be valid in the judgment of an ordinarily intelligent and informed layman. To hold otherwise would mean that an officer must often act at his [or her] peril or delay until he [or she] has had an opportunity to search out legal niceties of procedure. . . . "A result subjecting [the officer] to constant danger of liability would be an intolerable hardship to him [or her], and inevitably detract from the prompt and efficient performance of his [or her] public duty."'" (*[Vallindras v. Massachusetts Bonding & Ins. Co.](https://scholar.google.com/scholar_case?case=2466229476092595948&hl=en&as_sdt=2006)*[(1954) 42 Cal.2d 149, 154 (](https://scholar.google.com/scholar_case?case=2466229476092595948&hl=en&as_sdt=2006)*[Vallindras](https://scholar.google.com/scholar_case?case=2466229476092595948&hl=en&as_sdt=2006)*[)](https://scholar.google.com/scholar_case?case=2466229476092595948&hl=en&as_sdt=2006).)

Thus, for instance, a sheriff executing process regular on its face issued by the bankruptcy court was found under section 262.1 to have been immune from liability for wrongful eviction in a suit brought by relatives of the debtors/tenants. ([*George v. County of San Luis Obispo* (2000) 78 Cal.App.4th 1048, 1051, 1054 (*George*)](https://scholar.google.com/scholar_case?case=16587589838426832021&hl=en&as_sdt=2006).) After the sheriff served the writ of possession issued by the bankruptcy court — the writ having not named the plaintiffs but only the debtors — the plaintiffs presented state-law claims of right to possession which the sheriff attempted to file with the bankruptcy court, which the court rejected. (*Id.* at p. 1050.) The appellate court concluded that "[s]tate unlawful detainer law [did] not apply, and the state must defer to the federal order of the bankruptcy court directing immediate surrender of the premises." (*Id.* at p. 1051.) But the *George*court found that, under section 262.1, the writ and the accompanying bankruptcy court order requiring that the debtors and those claiming possession through them immediately surrender possession of the premises were regular on their face, the sheriff properly deferred to the bankruptcy court that issued them, and "the [s]heriff had no authority to do otherwise and was justified in completing the execution of the [o]rder and writ of possession." ([*George, supra,* at p. 1054](https://scholar.google.com/scholar_case?case=16587589838426832021&hl=en&as_sdt=2006); see also [*Hayward Lumber & Inv. Co. v. Biscailuz* (1957) 47 Cal.2d 716, 722-724](https://scholar.google.com/scholar_case?case=11144241657888067080&hl=en&as_sdt=2006) [levying sheriff relying on certificate of court clerk, appearing to be regular on its face, that attachment had been partially dissolved, immune from liability].)

***2. Propriety of Sheriff's Eviction of Plaintiffs***

After judgment was entered in Floria's favor awarding him possession of the property, the court issued a writ of possession naming Farahani as the judgment debtor. The Sheriff received the writ on March 14, and the Sheriff was then, under section 712.030, subdivision (a), "statutorily required to levy on it." ([*Lyons, supra,*231 Cal.App.4th at p. 1503](https://scholar.google.com/scholar_case?case=7886246313391848018&hl=en&as_sdt=2006).) The Sheriff then served the writ of possession in the manner prescribed by law — after finding no occupant upon whom personal service could be effected — by posting a copy of it along with a blank form claim of right to possession and mail-serving the judgment debtor, Farahani. (§ 715.010, subd. (b).) There was only one claim of right of possession thereafter filed — by Farahani, on behalf of his son, David — and it was denied by the court on March 27. And in the order denying David's claim, the court concluded: "IT IS HEREBY ORDERED that the Sheriff of Santa Clara County shall immediately enforce the writ and complete the eviction of all occupants from the subject premises pursuant to the writ of execution (possession of real property) previously issued in this action." This order was consistent with section 1174.3, subdivision (g), which provides that, if a claim of right to possession is denied, "the court *shall* order the levying officer to proceed with enforcement of the original writ of possession . . . which shall be effected within a reasonable time not to exceed five days." (Italics added.) In compliance with the court's order, the Sheriff enforced the writ by evicting all occupants of the property on March 27.

The Sheriff acted in accordance with the law in enforcing the writ of possession. Indeed, it was legally obligated to perform its ministerial duties to enforce the facially valid orders of the court having jurisdiction over the matter. (See §§ 712.020, subd. (a), 712.030, subd. (a), 715.010, subd. (b)(1),(2), 1174.3, subd. (g).) Plaintiffs' arguments to the contrary are unavailing.

Plaintiffs contend that the writ of possession was not "regular on its face" as provided in section 262.1. Plaintiffs concede that "the writ may have appeared `regular on its face' to the Sheriff's employees when it was first received at the Sheriff's office." But plaintiffs assert that the regular process was transformed into an irregular one when the Sheriff carried out the eviction of the property's occupants on March 27, learning at that time there were persons not named in the judgment who occupied separate rental living areas. Plaintiffs cite no apposite authority to support this argument.

As a ministerial officer, "[a] sheriff . . . is justified in the execution of, and shall execute, all process and orders regular on their face" (§ 262.1), and "`[u]nless there is a clear absence of jurisdiction on the part of the court . . . issuing the process, it is sufficient if upon its face it appears to be valid in the judgment of an ordinary intelligent and informed layman.'" (*[Vallindras, supra,](https://scholar.google.com/scholar_case?case=2466229476092595948&hl=en&as_sdt=2006)*[42 Cal.2d at p. 154](https://scholar.google.com/scholar_case?case=2466229476092595948&hl=en&as_sdt=2006).) Here, there was no jurisdictional issue presented on the face of the writ of possession. Nor was there anything apparent from the writ that would lead an ordinary and intelligent layman to question its validity. Moreover, plaintiff's argument that the facially regular writ became irregular once the Sheriff enforced it and determined there were occupants not named in the judgment is contrary to the following principles enunciated by the Supreme Court: "The function of the marshal [sheriff] in an unlawful detainer proceeding is very limited — at no point does it include a determination of the merits of the underlying action. . . . [W]hen the marshal [sheriff] discovers an individual who is not named in the writ of possession of the premises under a claim of right, he [or she] is not empowered, nor would he [or she] be equipped, to determine whether that person is bound by the previous judgment or had a facially valid claim to possession. . . . These determinations are properly the role of the courts." ([*Arrieta v. Mahon* (1982) 31 Cal.3d 381, 392-393 (*Arrieta*)](https://scholar.google.com/scholar_case?case=7057766672683562834&hl=en&as_sdt=2006).)

Plaintiffs' contention that the writ was irregular on its face also disregards the statutory scheme involving a challenge to a proposed eviction through the filing of a postjudgment claim of right to possession. The levying officer is required to serve a postjudgment claim of right to possession form at the time of service of the writ of possession. (§ 715.010, subd. (c).) This is the statutory method by which occupants unnamed in the unlawful detainer judgment or writ of possession are notified of the impending eviction and provided the opportunity to formally challenge it. (§ 1174.3, subd. (a)(1); see also Friedman et al., Cal. Practice Guide: Landlord-Tenant, *supra,* ¶ 9:521.) The unnamed occupant's failure to file a postjudgment claim of right to possession forfeits his or her challenge to the sheriff's enforcement of the writ of possession that is regular on its face. ([*Cardenas, supra,* 235 Cal.App.3d at pp. 1349-1350](https://scholar.google.com/scholar_case?case=18099995341939224334&hl=en&as_sdt=2006).) Were plaintiffs' position correct, if a sheriff, attempting to perform its ministerial duties of enforcing a writ of possession, encounters an occupant unnamed in the judgment or writ, the sheriff would be required to suspend execution efforts in all instances, regardless of whether the occupant had filed timely a postjudgment claim of right to possession before eviction. (See § 1174.3, subd. (a)(1).) This would render the postjudgment claim of possession procedures meaningless.

It is further contended by plaintiffs that their eviction by the Sheriff was wrongful because the description of the property in the writ of possession was inadequate. They assert that the court erred in finding the description of the property in the writ "was sufficient to authorize the Sheriff to evict everyone who could be found upon the parcel address, regardless of whether some of the persons being evicted were residing in separate rental living units located on that parcel, and regardless of whether the occupants of such units had had any involvement in the underlying unlawful detainer proceedings against their foreclosed-upon landlord, or whether they or their units had been named in the writ — as they were not." We disagree with plaintiffs' assertion that the writ of possession inadequately described the property and that the Sheriff's enforcement of it was on this basis wrongful.

The writ of possession described the property by its street address, "1650 Pomona Avenue [¶] San Jose, CA 95110." (Capitalization omitted.) This was a sufficient description of the property subject to the writ of possession as required under section § 715.010, subdivision (b)(1). (Friedman et al., Cal. Practice Guide: Landlord-Tenant, *supra,* ¶ 9:492 [description of premises need not be formal legal description; "a full and correct street address (including appropriate apartment/suite number) suffices"]; see also Cal. Landlord-Tenant Practice (Cont.Ed.Bar 2d ed. 2015) § 9.37 [allegation containing street address of premises in unlawful detainer complaint sufficient].) Plaintiffs' argument that the writ of possession was required to describe each rental unit located on the property (e.g., Farahani's residence on the first floor of the house, the Stewarts' and Ablitz's respective residences on the second floor, and Whelan's residence in her travel trailer on the property), is without legal support and would be impracticable.

Plaintiffs cite [*Cardenas, supra,* 235 Cal.App.3d 1344](https://scholar.google.com/scholar_case?case=18099995341939224334&hl=en&as_sdt=2006) and *[Nativi v. Deutsche Bank National Trust Co.](https://scholar.google.com/scholar_case?case=11725020331286162055&hl=en&as_sdt=2006)*[(2014) 223 Cal.App.4th 261 (](https://scholar.google.com/scholar_case?case=11725020331286162055&hl=en&as_sdt=2006)*[Nativi](https://scholar.google.com/scholar_case?case=11725020331286162055&hl=en&as_sdt=2006)*[)](https://scholar.google.com/scholar_case?case=11725020331286162055&hl=en&as_sdt=2006) in support of their contention that the property was not adequately described in the writ of possession. They argue that in *Cardenas,* the appellate court used the term "premises" to refer to the plaintiffs' living unit, even though it was the front house rather than the entirety of the property. But *Cardenas* did not concern a landlord's efforts to evict all occupants of a piece of property; instead, the landlord brought eviction proceedings against occupants of one building, the "front house," located on the property. ([*Cardenas, supra,* at p. 1346](https://scholar.google.com/scholar_case?case=18099995341939224334&hl=en&as_sdt=2006).)[[9]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "%5B9%5D) A panel of this court rejected the challenge of the appellants/occupants to the lawfulness of the eviction on the basis that they failed to file a postjudgment claim of right to possession. (*Id.* at pp. 1349-1350.)

*Nativi* did not involve a challenge to the validity of a marshal's actions in evicting an occupant; rather, it was a suit for wrongful eviction and other claims by tenants against a foreclosing lender and its loan servicer. (*[Nativi, supra,](https://scholar.google.com/scholar_case?case=11725020331286162055&hl=en&as_sdt=2006)*[223 Cal.App.4th at pp. 270, 294](https://scholar.google.com/scholar_case?case=11725020331286162055&hl=en&as_sdt=2006).) Further, although plaintiffs in this case emphasize that a panel of this court in *Nativi* used the word "premises" to refer to the *Nativi* appellants' converted garage, the foreclosed property consisted of a single family dwelling and the converted garage that had been rented by the appellants. (*Id.* at p. 294.) This is analogous to the circumstances here, where the foreclosed property consisted of the entirety of the approximate three-quarter-acre parcel located at 1650 Pomona Avenue in San Jose — including the entirety of the two-story Victorian house and the land upon which Whelan's travel trailer was located. Neither *Cardenas* nor *Nativi* supports plaintiffs' argument.

Plaintiffs argue further that the postjudgment claim of right to possession procedure for nonparty occupants as specified in section 1174.3 is inapplicable to them under the circumstances of this case. Their position is that the procedure deals with "the rights of persons who occupy the same living unit that is the subject of the unlawful detainer action — not to the rights of persons occupying other living units that were not included in the unlawful detainer action, even if such separate living units happen to be located in the same building or on the same parcel of land." Plaintiffs contend that the property that was the subject of the unlawful detainer action was Farahani's living unit on the property, i.e., the first floor of the Victorian house, and plaintiffs' separate rental "living units had absolutely nothing to do with Ronald Floria's unlawful detainer against Fred Farahani." Plaintiffs offer no persuasive authority to support their position.

Plaintiffs' argument is directly related to their contention — which we have found, *ante,* to be without merit — that the writ of possession was defective because the "description of the real property, possession of which is to be delivered to the judgment creator in satisfaction of the judgment" (§ 715.010, subd. (b)(1)) was inadequate because it did not include plaintiffs' separate living units. The unlawful detainer complaint filed against Farahani identified the property of which possession was sought as "1650 Pomona Avenue, San Jose, Santa Clara County, California 95110." (See § 455 [plaintiff bringing an action to recover real property must describe the property "in the complaint with such certainty as to enable an officer, upon execution, to identify it"].) The writ of possession, as we have discussed, properly described the property by reference to its street address. The procedure specified under section 1174.3 applied to plaintiffs, as nonparty occupants, of the property identified in the writ. (See § 1174.3, subd. (a)(1),(2).) The fact that plaintiffs allege they were unaware of the unlawful detainer proceedings and judgment prior to March 27 when the Sheriff enforced the writ does not render the procedure for filing a postjudgment claim of right to possession inapplicable to them.

The Sheriff properly carried out its ministerial duties in enforcing the unlawful detainer judgment. Accordingly, summary judgment was proper.

***3. Statutory Immunity Applied to Sheriff's Actions***

The trial court as an additional basis for granting defendants' motion concluded that the court orders provided the Sheriff in connection with the unlawful detainer action (i.e., the writ of possession and the order denying David's claim of right to possession) were "regular and valid on [their] face." It therefore concluded that defendants were immune from suit pursuant to section 262.1. We agree with the trial court that the Sheriff's statutory immunity furnishes an additional basis for granting defendants' motion for summary judgment.

As a ministerial officer, the Sheriff, upon delivery of the writ of possession issued by the clerk of the court is *required* to "execute the writ in the manner prescribed by law." (§ 712.030, subd. (a).) The Sheriff is duty bound to "execute, all process and orders regular on their face and issued by competent authority," irrespective of any "defect in the proceedings upon which they were issued." (§ 262.1.) The Sheriff therefore has a "duty to execute the orders of the court unless they are patently irregular and void." (*[Vallindras, supra,](https://scholar.google.com/scholar_case?case=2466229476092595948&hl=en&as_sdt=2006)*[42 Cal.2d at p. 154](https://scholar.google.com/scholar_case?case=2466229476092595948&hl=en&as_sdt=2006).)

The writ of possession and order denying David's claim here were regular on their face, and there is no assertion that the court lacked authority to issue them. The order directed the Sheriff to "immediately enforce the writ and complete the eviction of all occupants from the subject premises pursuant to the writ of execution (possession of real property) previously issued in [the unlawful detainer] action." The writ and the order are such that they "`appear[] to be valid in the judgment of an ordinarily intelligent and informed layman.'" (*[Vallindras, supra,](https://scholar.google.com/scholar_case?case=2466229476092595948&hl=en&as_sdt=2006)*[42 Cal.2d at p. 154](https://scholar.google.com/scholar_case?case=2466229476092595948&hl=en&as_sdt=2006).) As we have discussed, *ante,* there is no merit to plaintiffs' claim that the documents were not regular on their face because, when the Sheriff proceeded to levy on them, the Sheriff encountered several nonparty occupants who claimed orally a right to possess their individual rented units within the property. Such circumstances were, if anything, "defect[s] in the proceedings upon which they were issued" (§ 262.1), which did not furnish a basis for nullifying the Sheriff's statutory immunity. As a ministerial officer, it was beyond the Sheriff's function to make a determination of the merits of such oral claims. ([*Arrieta, supra,*31 Cal.3d at p. 392](https://scholar.google.com/scholar_case?case=7057766672683562834&hl=en&as_sdt=2006).) Such "determinations are properly the role of the courts." (*Id.*at p. 393; see also [*George, supra,* 78 Cal.App.4th at p. 1054](https://scholar.google.com/scholar_case?case=16587589838426832021&hl=en&as_sdt=2006) [sheriff properly deferred to bankruptcy court that issued order and writ of possession regular on their face, and "[s]heriff had no authority to do otherwise"].)

Plaintiffs contend they were entitled under state and federal law to 90 days' written notice to quit from the landowner before they could be evicted. They cite, inter alia, section 1161b, subdivision (a), as well as *Nativi.* (See *[Nativi, supra,](https://scholar.google.com/scholar_case?case=11725020331286162055&hl=en&as_sdt=2006)*[223 Cal.App.4th at p. 283](https://scholar.google.com/scholar_case?case=11725020331286162055&hl=en&as_sdt=2006) ["the PTFA [Protecting Tenants at Foreclosure Act of 2009] mandates that, at a minimum, an immediate successor in interest in foreclosed property [must] give 90 days' notice to vacate to bona fide tenants of residential property"].) Irrespective of plaintiffs' entitlement under state or federal law to notice to quit from the landowner, the absence of such notice here does not negate the Sheriff's immunity under section 262.1. Any notice defect here would have been a "defect in the proceedings" having no effect upon the Sheriff's actions of enforcing the writ and order denying David's claim that were "regular on their face and issued by competent authority." (*Ibid.*)

The trial court properly granted defendants' summary judgment motion on the independent ground that defendants were immune from liability.[[10]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "%5B10%5D)

**IV. DISPOSITION**

The judgment entered on the order granting summary judgment in favor of defendants Sheriff of Santa Clara County and the County of Santa Clara is affirmed.

ELIA, ACTING P.J. and MIHARA, J., concurs.

[[1]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "r%5B1%5D) All further statutory references are to the Code of Civil Procedure unless otherwise stated.

[[2]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "r%5B2%5D) All dates stated hereafter are 2013 unless otherwise specified.

[[3]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "r%5B3%5D) In opposition to summary judgment, Ablitz declared that "[t]here was normally no access to inside the fenced[-]in area without knowing the security code on the gate."

[[4]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "r%5B4%5D) The record reflects that in February 2014, after the complaint was filed, Floria passed away. Plaintiffs filed a supplemental complaint substituting Jennifer Leland, as personal representative of Floria's estate, as defendant. For simplicity, we will refer to the party defendant as the decedent, Floria.

[[5]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "r%5B5%5D) Floria filed a separate motion for summary judgment, or, in the alternative, motion for summary adjudication. Floria's motion was heard in conjunction with defendants' motion. The court (1) denied summary judgment, (2) granted summary adjudication as to the second through sixth causes of action against Floria, and (3) denied Floria's motion for summary adjudication of the first cause of action of the complaint. Although not reflected in the record, defendants represented in respondents' brief that plaintiffs have settled their claims against Floria.

[[6]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "r%5B6%5D) This procedure is not required where the occupants of the property were served in the unlawful detainer case with a summons, complaint, and prejudgment claim of right to possession as provided in section 415.46. (§ 715.010, subd. (c).) No such service upon the occupants (plaintiffs) occurred in this case.

[[7]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "r%5B7%5D) "Except as provided in paragraph (2), unless a prejudgment claim of right to possession has been served upon occupants in accordance with Section 415.46, any occupant not named in the judgment for possession who occupied the premises on the date of the filing of the action may object to enforcement of the judgment against that occupant by filing a claim of right to possession as prescribed in this section. A claim of right to possession may be filed at any time after service or posting of the writ of possession pursuant to subdivision (a) or (b) of Section 715.020, up to and including the time at which the levying officer returns to effect the eviction of those named in the judgment of possession. . . . An occupant or tenant who is named in the action shall not be required to file a claim of right to possession to protect that occupant's right to possession of the premises." (§ 1174.3, subd. (a)(1).) Subdivision (a)(2) of section 1174.3 provides that in an unlawful detainer proceeding described in section 415.46 subdivision (e)(2) — one resulting from a foreclosure sale, as is the case here — the occupant may serve the postjudgment claim of right to possession irrespective of whether he or she was served with a prejudgment claim of right to possession. As noted (see fn. 6, *ante*), no such prejudgment claim was served in this case.

[[8]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "r%5B8%5D) "A sheriff or other ministerial officer is justified in the execution of, and shall execute, all process and orders regular on their face and issued by competent authority, whatever may be the defect in the proceedings upon which they were issued." (§ 262.1.)

[[9]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "r%5B9%5D) In the opinion, the "premises" were described as "30 Hawthorne Avenue (front house) in Watsonville in Santa Cruz County." ([*Cardenas, supra,* 235 Cal.App.3d at p. 1346](https://scholar.google.com/scholar_case?case=18099995341939224334&hl=en&as_sdt=2006).) This suggests that there were multiple buildings with multiple addresses on the property owned by the landlord.

[[10]](https://scholar.google.com/scholar_case?case=16738571692960582795" \l "r%5B10%5D) Plaintiffs' brief focuses on the first cause of action for wrongful eviction. Plaintiffs do not specifically address the remaining five causes of action alleged in their complaint. Because plaintiffs have not argued the matter, we need not separately address the summary judgment order insofar as it pertains to the claims other than wrongful eviction. ([*Reyes v. Kosha* (1998) 65 Cal.App.4th 451, 466, fn. 6](https://scholar.google.com/scholar_case?case=7516565015252534669&hl=en&as_sdt=2006)[although review of summary judgment is de novo, appellate court will not address issues that have not been adequately raised and addressed in appellant's brief].) In any event, these other claims are clearly derivative of, and dependent upon, the wrongful eviction claim. Since that cause of action fails, the derivative claims fail as well. (See [*Price v. Starbucks Corp.* (2011) 192 Cal.App.4th 1136, 1147](https://scholar.google.com/scholar_case?case=6027922186540615597&hl=en&as_sdt=2006).)