

1 DAVID LOY, Cal. Bar No. 229235
ANN CAPPETTA, Cal. Bar No. 354079
2 FIRST AMENDMENT COALITION
534 4th Street, Suite B
3 San Rafael, CA 94901-3334
Telephone: 415.460.5060
4 Email dloy@firstamendmentcoalition.org
acappetta@firstamendmentcoalition.org

ELECTRONICALLY FILED
Superior Court of California,
County of Solano
05/08/2024 at 06:11:12 PM
By: O. Camarena, Deputy Clerk

5 Attorneys for Proposed Intervenor
6 HOLLY McDEDE

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SOLANO

11 MATTHEW SHELTON, an Individual,
12 Plaintiff,
13 v.
14 NAPA VALLEY UNIFIED SCHOOL
DISTRICT; BENECIA UNIFIED SCHOOL
15 DISTRICT; and DOES 1-25, inclusive,
16 Defendants.
17
18 HOLLY McDEDE,
19 Proposed Intervenor.

Case No. CU24-03170
**NOTICE OF EX PARTE APPLICATION
AND EX PARTE APPLICATION FOR AN
ORDER GRANTING PROPOSED
INTERVENOR HOLLY McDEDE LEAVE
TO INTERVENE**
Date: _____
Time: _____
Dept.: 10
The Hon. Christine N. Donovan

20 TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:
21 PLEASE TAKE NOTICE that on _____, at _____ a.m., in Department 10 of the
22 above-captioned court, located at 600 Union Avenue, Fairfield, CA 94533, Courtroom 305, Holly
23 McDede, through undersigned counsel, will apply ex parte and does hereby apply for leave to
24 intervene in the above-captioned action pursuant to Code of Civil Procedure section 387.
25 *See Carlsbad Police Officers Ass'n v. City of Carlsbad*, 49 Cal. App. 5th 135, 149 (2020) (holding
26 that persons seeking public records “qualified for intervention of right” in action seeking to
27 prevent agencies from disclosing requested records); *Marken v. Santa Monica-Malibu Unified*
28 *Sch. Dist.*, 202 Cal. App. 4th 1250, 1268 (2012) (stating that person who requested records

1 “should be named as a real party in interest and, if not, allowed to intervene in a reverse-CPRA
2 lawsuit if he or she wishes”).

3 This application for leave to intervene is based on the following grounds:

4 1. A person may seek leave to intervene “by noticed motion or ex parte application.”
5 Code Civ. Proc. § 387(c). The proposed complaint in intervention is attached to the declaration of
6 undersigned counsel filed herewith.

7 2. Pursuant to California Constitution, article I, section 3(b)(1), (7), and the California
8 Public Records Act, Gov’t Code § 7920.000, *et seq.* (“CPRA”), every person has a right of access
9 to information concerning the conduct of the people’s business.

10 3. McDede made requests under the CPRA to the Napa Valley Unified School
11 District and Benicia Unified School District for public records at issue in this action, which
12 Plaintiff seeks to prevent the districts from disclosing. McDede Decl. ¶¶ 2–7.

13 4. McDede’s application to intervene is timely and will not impair or impede the
14 prompt resolution of the issues presented in this action. This action was filed on April 25, 2024,
15 and on May 1, 2024, the Court issued a temporary restraining order enjoining Defendants from
16 disclosing the requested records, which Defendants did not oppose. McDede is promptly seeking
17 leave to intervene in advance of the Court’s June 11, 2024, hearing on an order to show cause why
18 a preliminary injunction should not be issued. McDede is prepared to comply with the Court’s
19 existing briefing schedule and should be allowed to intervene at this time and participate in the
20 show cause hearing to protect her right of access to public records. Loy Decl. ¶ 5.

21 5. All parties to this action have been notified through their counsel of record that this
22 application for leave to intervene would be presented to the court. Loy Decl. ¶ 6.

23 6. Counsel for the parties in this case are as follows:

24 Counsel for Plaintiff Matthew Shelton
25 Kevin Gres
26 Law Offices of Kevin Gres
27 2049 Century Park East, Suite 3020
28 Los Angeles, CA 90067
(323) 813-1910
kevin@kevingres.com

1 Counsel for Defendant Napa Valley Unified School District
Mary T. Hernández
2 Alex Sears
3 Garcia Hernández Sawhney, LLP
2490 Mariner Square Loop, Suite 140
4 Alameda, CA 94501
(510) 695-2802
5 mhernandez@ghslaw.com

6 Counsel for Defendant Benicia Unified School District
Joshua Stevens
7 Fagen Friedman & Fulfrost LLP
70 Washington Street, Suite 205
8 Oakland, California 94607
(510) 550-8200
9 jstevens@f3law.com

10 7. Counsel for Matthew Shelton stated that Shelton objects to this application. Loy
11 Decl. ¶ 7.

12 8. Counsel for Napa Valley Unified School District stated that said district does not
13 oppose this application and takes no position on the merits of Shelton’s claims. Loy Decl. ¶ 7.

14 9. Counsel for Benicia Unified School District stated that said district takes no
15 position on this application or on the merits of Shelton’s claims. Loy Decl. ¶ 7.

16 This ex parte application is based upon the information provided herein, the supporting
17 declarations of McDede and undersigned counsel, the accompanying memorandum in support of
18 this application, the pleadings on file in this action, any matter of which the Court may take
19 judicial notice and such other matters as may be brought to the Court’s attention before or during
20 the consideration of this application.

21 Dated: May 8, 2024

Respectfully submitted,

22 FIRST AMENDMENT COALITION

23
24 By



25 DAVID LOY
ANN CAPPETTA
26 Attorneys for HOLLY McDEDE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Marin, State of California. My business address is 534 4th Street, Suite B, San Rafael, CA 94901-3334.

On May 8, 2024, I served true copies of the following document(s) described as **NOTICE OF EX PARTE APPLICATION AND EX PARTE APPLICATION FOR AN ORDER GRANTING PROPOSED INTERVENOR HOLLY McDEDE LEAVE TO INTERVENE** on the interested parties in this action as follows:

Kevin Gres
Law Offices of Kevin Gres
2049 Century Park East, Suite 3020
Los Angeles, CA 90067
Email: kevin@kevingres.com

Attorneys for Plaintiff Matthew Shelton

Mary T. Hernández
Alex Sears
Garcia Hernández Sawhney, LLP
2490 Mariner Square Loop, Suite 140
Alameda, CA 94501
Email: mhernandez@ghslaw.com

Attorneys for Defendant Napa Valley Unified School District

Joshua Stevens
Fagen Friedman & Fulfrost LLP
70 Washington Street, Suite 205
Oakland, California 94607
Email: jstevens@f3law.com

Attorneys for Defendant Benicia Unified School District

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address rregnier@firstamendmentcoalition.org to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 8, 2024, at East Palo Alto, California.



Robin P. Regnier