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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MARIN

JOHN DOE, an individual,

Plaintiff/Petitioner,

vs.

MILL VALLEY SCHOOL DISTRICT,

Defendant/Respondent.

Holly McDede,

Real Party in Interest.

Case No.: CV0003896

Assigned for all purposes to:
Hon. Sheila S. Lichtblau, Dept. H

**PLAINTIFF/PETITIONER JOHN DOE'S
NOTICE OF MOTION AND MOTION
FOR JUDGMENT ON PETITION FOR
WRIT OF MANDATE; MEMORANDUM
OF POINTS AND AUTHORITIES;
DECLARATIONS OF JOHN DOE AND
SHANNON D. BOYD IN SUPPORT
THEREOF**

Hearing:

Date: February 26, 2025
Time: 1:30 p.m.
Place: Dept. H

Action filed: September 6, 2025
Trial date: Not Set

1 **TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that on **February 26, 2025 at 1:30 p.m.**, or as soon thereafter
3 as the matter may be heard in Department H of the above-titled Court, located at 3501 Civic Center
4 Drive, San Rafael, CA 94903, and pursuant to the Stipulation and Order of the Court Setting Hearing
5 and Briefing Schedule on Motion for Judgment on the Petition for Writ of Mandate, entered in the
6 above-captioned action on December 11, 2024, Plaintiff/Petitioner John Doe (“John Doe”) will and
7 hereby does move (“Motion”) the Court for a writ of mandate enjoining Defendant/Respondent Mill
8 Valley School District (“District”), its members, officers, agents, representatives, employees and
9 contractors, and anyone acting on the District’s behalf or under the District’s direction or
10 supervision, from disclosing any of John Doe’s personnel records to Real Party in Interest Holly
11 McDede, or to any other third party without John Doe’s express written consent.

12 This Motion is brought pursuant to California Code of Civil Procedure section 1085 and on
13 the grounds that: John Doe’s personnel records are exempt from disclosure under the California
14 Public Records Act; disclosure of John Doe’s personnel records would violate his privacy rights set
15 forth in the California Constitution; no adequate alternative remedy exists to prevent irreversible
16 harm to John Doe; and the District’s decision to disclose John Doe’s personnel records is
17 unconstitutional or – at the very least – arbitrary, capricious or entirely lacking in evidentiary
18 support, which necessitates a writ of mandate enjoining the District from said records’ disclosure.

19 This Motion is based on this Notice, the Motion, the Memorandum of Points and Authorities,
20 the Declarations of John Doe and Shannon D. Boyd, the Court’s records, and files in this action, and
21 upon such other and further evidence and arguments as may be presented prior to or at the time of
22 the hearing on the Motion.

23 Dated: January 22, 2025

PRICE, POSTEL & PARMA LLP

24
25 By: 

SHANNON D. BOYD

JEFF F. TCHAKAROV

Attorneys for

Plaintiff/Petitioner John Doe

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff and Petitioner John Doe (“John Doe”) was forced to commence this litigation in
4 response to Defendant and Respondent Mill Valley School District’s (“District”) threatened
5 disclosure of John Doe’s personnel records to Real Party in Interest Holly McDede (“Requester”),
6 who is a member of the media and requested the records pursuant to the California Public Records
7 Act (“CPRA”). While the records at issue in this case contain allegations of misconduct during John
8 Doe’s former employment with the District, the subject documents are of a “personnel” nature and
9 are therefore exempt from disclosure under the CPRA. John Doe was never disciplined and the
10 allegations are neither “substantial” (*i.e.*, the complaints did not allege violence, threats of violence,
11 or sexual-type conduct) nor “well-founded” (*i.e.*, the allegations have insufficient indicia of
12 reliability). In fact, the California Commission on Teacher Credentialing (“CTC”) issued a letter
13 stating: “[t]he Committee of Credentials, after careful review and consideration of the materials
14 contained in your file, has determined to close its investigation and to recommend no adverse action
15 at this time.”

16 Disclosure of John Doe’s personnel records to the Requester and – effectively – to the public
17 at large would not only violate the provisions of the CPRA, but would also trample over John Doe’s
18 privacy rights protected by the California Constitution. Allowing disclosure of the personnel records
19 to the Requester would serve no cause other than the public’s most prurient interest in
20 unsubstantiated allegations and fabricated scandal. Once disclosed, the confidential personnel
21 records and the completely unfounded allegations contained therein would irreversibly decimate
22 John Doe’s private and professional life and no monetary award could possibly compensate John
23 Doe for such damage.

24 Accordingly, the District’s decision to disclose John Doe’s personnel records is prohibited
25 by law or – at the very least – arbitrary, capricious or entirely lacking in evidentiary support, which
26 necessitates the only remedy that could adequately prevent irreversible harm to John Doe: a writ of
27 mandate enjoining the District from said records’ disclosure without John Doe’s express written
28 consent.

1 **II. STATEMENT OF FACTS**

2 The District is comprised of 5 elementary schools and 1 middle school with an enrollment
3 of approximately 2,400 students in grades TK through 8. John Doe is a former employee of the
4 District. Declaration of John Doe (“Doe Decl.”) ¶ 2. The Requester is a reporter, editor and producer
5 employed by KQED – a news media outlet based in San Francisco, California. Declaration of
6 Shannon D. Boyd (“Boyd Decl.”) ¶ 2.

7 **A. CPRA Request**

8 The District maintains personnel records for its employees and former employees, such as
9 John Doe, concerning their employment with the District. On or about June 7, 2024, the District
10 received from the Requester a request (“Request”) under the CPRA (Cal. Gov. Code. § 7920.000, *et*
11 *seq.* (formerly Cal. Gov. Code § 6250, *et seq.*)). The Request sought public records related to claims
12 of sexual harassment, sexual assault, or boundary crossing or grooming behavior made regarding
13 teachers or other employees of the District. The Request also sought public records related to claims
14 of sexual harassment, sexual assault, or grooming made to the CTC from 2014 to the date the Request
15 is fulfilled. Boyd Decl. ¶ 3.

16 On or about August 23, 2024, the District provided notice of the Request to John Doe
17 (“Notice”), informing John Doe that the Request implicates his personnel documents concerning his
18 previous employment with the District. Attached to the Notice were some of John Doe’s personnel
19 records containing documents relating to allegations of misconduct (“Personnel Records”). Boyd
20 Decl. ¶ 4. The District threatened to disclose John Doe’s Personnel Records to the Requester unless
21 a court order mandated otherwise, which forced John Doe to seek judicial relief by commencing the
22 instant litigation to assert and protect his privacy rights. Boyd Decl. ¶ 5. While the District redacted
23 names of third parties from the Personnel Records, the District did not redact any of John Doe’s
24 personal identifying information. Boyd Decl. ¶ 4.

25 **B. Procedural Posture**

26 On September 18, 2024, this Court held a hearing on John Doe’s Ex Parte Applications (1)
27 to Proceed Under Fictitious Name; (2) to File Documents Under Seal; and (3) to Grant a Temporary
28 Restraining Order and Order to Show Cause Re: Preliminary Injunction. On September 19, 2024,

1 this Court entered an order (“Ex Parte Order”) granting all three of John Doe’s Ex Parte Applications.
2 The third aspect of the Ex Parte Order temporarily restrained and enjoined the District from
3 disclosing the Personnel Records until the November 6, 2024 hearing on a Motion for Preliminary
4 Injunction / Order to Show Cause (“PI Motion”) why the District should not be restrained and
5 enjoined from disclosing the Personnel Records during the pendency of this litigation.

6 On November 7, 2024, after a hearing on the matter, the Court entered an Order Regarding
7 Plaintiff/Petitioner John Doe’s Motion for Preliminary Injunction (“PI Order”), which adopted the
8 Court’s tentative ruling on the matter (attached to the PI Order as Exhibit A) and enjoined disclosure
9 of the Personnel Records without John Doe’s “express written consent until final adjudication of this
10 action.” On December 11, 2024, the Court entered a stipulated order setting the instant Motion for
11 hearing on February 26, 2025 and a corresponding briefing schedule.

12 **C. Misconduct Alleged in John Doe’s Personnel Records**

13 Pursuant to the Ex Parte Order, the Personnel Records have been filed under seal as **Exhibit**
14 **A** to Notice of Lodgment filed on September 10, 2024 (“NOL”) and **Exhibit A** to Amended Notice
15 of Lodgment (Second) filed on September 23, 2024 (“Am. NOL2”).¹ Below is a summary of John
16 Doe’s alleged misconduct set forth in the Personnel Records:

17 **1. Silent Accolades/Doorway Standing/Face Mask.** The District received a
18 complaint from an employee alleging that John Doe walked into her office to give her praise for
19 identifying the students doing graffiti on campus. During this interaction, John Doe allegedly said
20 that he was giving the other employee “silent accolades” by looking into her eyes and blinking
21 silently for about 10 seconds, which made the employee feel uncomfortable. On the same day, the
22 same employee and another staff member of the District were trying to exit the District’s kitchen
23 area, but were allegedly unable to do so because John Doe was standing in the middle of the kitchen
24 doorway with one arm leaning on the door frame. When the employee approached John Doe with a
25 request to walk through the door, John Doe allegedly did not respond verbally – continuing the
26

27 ¹ **Exhibit A** was inadvertently omitted from the original Notice of Lodgment (Second) filed
28 on September 17, 2024, which necessitated the filing of an Amended Notice of Lodgment (Second)
on September 23, 2024.

1 conversation with a different employee – and instead moved his arm further up the door frame. The
2 staff members interpreted John Doe’s action as a non-verbal cue to exit underneath his arm and did
3 so while feeling uncomfortable. The complaint also alleged that John Doe did not consistently wear
4 his face mask indoors and while in close proximity to staff during the Covid-19 pandemic. NOL
5 (PDF pp. 39-41, 43, 45-47, 73-74, 91-92, 103-105). The District issued a Conference Summary
6 memorandum which later became a written warning; neither were placed in John Doe’s personnel
7 file. The sole “findings” were inconsistent face mask usage and a directive to immediately improve
8 effective communication and relationships due to the reported staff discomfort. Sexual harassment
9 policies were not discussed. No discipline was taken.

10 **2. Manspreading.** The District received a complaint alleging that at a one-on-
11 one meeting in his office, John Doe allegedly kept the door slightly ajar and took a seat closely in
12 front of another staff member with his legs wide apart (a position the complaint referred to as
13 “manspreading”), slumped in his chair in a “very salacious way” and thus created significant
14 discomfort for the staff member. NOL (PDF pp. 53, 55, 59, 63-65, 71, 93-95, 101-102); Am. NOL2
15 (PDF pp. 4-13). The complainant did not provide further information but stated that she felt John
16 Doe’s “seating position one of aggression and one that was too demeaning.” The District issued a
17 Conference Summary memorandum, which was not placed in John Doe’s personnel file. There were
18 no “findings”; only allegations and the directive that failure to address the conduct could result in a
19 written warning. Sexual harassment policies were not discussed. No discipline was taken.

20 **3. Hair Touching.** The District received a “concern” alleging that on one
21 occasion, the reporting individual saw John Doe allegedly touching the braided hair of a female
22 African-American student as if to display it to other people around, while the student was talking
23 about getting her hair done. NOL (PDF pp. 49, 51, 93-94, 97, 99). The District issued a Conference
24 Summary memorandum, which was not placed in John Doe’s personnel file. There were no
25 “findings”; only allegations and the directive that failure to address the conduct could result in a
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1 written warning. Neither sexual harassment nor grooming policies were discussed. No discipline
2 was taken.

3 **4. Arm Around Shoulder.** The District received a complaint alleging that John
4 Doe was observed with his arm around a male student's shoulder while walking with the student in
5 the hallway. NOL (PDF pp. 61, 93-94, 107). The District issued a Conference Summary
6 memorandum, which was not placed in John Doe's personnel file. There were no "findings"; only
7 allegations on the directive that failure to address the conduct could result in a written warning.
8 Neither sexual harassment nor grooming policies were discussed. No discipline was taken.

9 **5. Hot Mic.** The District received a complaint alleging that John Doe said
10 "having sex in the booty hole" in a Zoom room prior to the start of a sexual education meeting. John
11 Doe's statement was captured in a Zoom video that was sent to some parents. NOL (PDF pp. 21,
12 23-25, 87-88). John Doe received a Written Warning, indicating that "failure to address the identified
13 area *may* result in discipline..." (Emphasis added.) This was placed in John Doe's personnel file.
14 Sexual harassment policies were not discussed. No discipline was taken.

15 **6. Berating Students/Co-Worker.** The District received a complaint alleging
16 that John Doe berated students and a staff member by using a harsh and elevated tone of voice. NOL
17 (PDF pp. 75-77). This allegation did not involve alleged violence or sexual misconduct. John Doe
18 resigned prior to learning of this complaint; there are no findings.

19 **7. Thigh/Shoulder Touching.** The District received a complaint from a parent
20 alleging the parent asked three students (including the parent's own daughter) if they had heard
21 rumors about John Doe being inappropriate with students, that the students said yes, and that the
22 daughter then alleged that John Doe sat down next to her during lunch, put his hand on her thigh,
23 and rubbed it. John Doe allegedly also squeezed the student's shoulder. When the parent asked the
24 daughter's friends if John Doe had done anything inappropriate to anyone they knew, they all
25 allegedly said that they had heard stories about John Doe touching other girls. NOL (PDF p. 19);
26 Am. NOL2 (PDF p. 39). Other than the above, no other complaints were provided by the District
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1 regarding alleged touching by John Doe. The police investigated this allegation and no charges –
2 criminal or civil – were filed. Doe Decl. ¶¶ 18, 19.

3 **D. Administrative Leave, Resignation, and CTC Investigation**

4 The District placed John Doe on paid administrative leave until further notice to allow the
5 District to complete an investigation into the allegations set forth above. The Notice of Paid
6 Administrative Leave expressly stated that: “The decision to place you on paid leave is not
7 disciplinary in nature.” NOL (PDF p. 79). Subsequently, John Doe voluntarily resigned from his
8 employment with the District. Am. NOL2 (PDF p. 51).

9 After conducting an investigation into all allegations of misconduct against John Doe during
10 his employment with the District, the CTC issued a letter stating: “The Committee of Credentials,
11 after careful review and consideration of the materials contained in your file, has determined to close
12 its investigation and to recommend no adverse action at this time.” NOL (PDF pp. 3-15).

13 **III. LEGAL STANDARD**

14 “A public entity’s enactment of a rule constitutes a legislative or quasi-legislative act and is
15 reviewed by ordinary or traditional mandate under Code of Civil Procedure section 1085.” *Beach*
16 *& Bluff Conservancy v. City of Solana Beach*, 28 Cal. App. 5th 244, 258 (2018) (internal quotations
17 and citations omitted). “A petition for traditional mandamus is appropriate in ... actions brought to
18 attack, review, set aside, or void a quasi-legislative ... or ministerial determination, or decision of a
19 public agency.” *Ibid.* “The trial court reviews an administrative action pursuant to Code of Civil
20 Procedure section 1085 to determine whether the agency’s action was arbitrary, capricious, or
21 entirely lacking in evidentiary support, contrary to established public policy, unlawful, procedurally
22 unfair, or whether the agency failed to follow the procedure and give the notices the law requires.”
23 *Id.* at 258-59.

24 “Ordinary mandamus may be used to compel the performance of a duty that is purely
25 ministerial in nature or to correct an abuse of discretion.” *Golden Drugs Co. v. Maxwell-Jolly*, 179
26 Cal. App. 4th 1455, 1466 (2009) (internal quotations and citations omitted). “When making that
27 inquiry, the court must ensure that an agency has adequately considered all relevant factors, and has
28 demonstrated a rational connection between those factors, the choice made, and the purposes of the

1 enabling statute.” *Ibid.* “In each case the court must satisfy itself that the order was supported by
2 the evidence, although what constitutes reasonable evidentiary support may vary depending on the
3 nature of the action. A proceeding which has determined individual rights in a factual context will
4 warrant more exacting judicial review of the evidence.” *Ibid.*

5 “Generally, a writ will lie when there is no plain, speedy, and adequate alternative remedy;
6 the respondent has a duty to perform; and the petitioner has a clear and beneficial right to
7 performance.” *Payne v. Superior Ct.*, 17 Cal. 3d 908, 925 (1976).

8 **IV. DISCLOSURE OF JOHN DOE’S PERSONNEL RECORDS WOULD VIOLATE**
9 **THE CPRA AND THE CALIFORNIA CONSTITUTION, AND THEREFORE A**
10 **WRIT OF MANDATE SHOULD ISSUE ENJOINING DISCLOSURE**

11 Public records are exempt from disclosure under the CPRA if they: (1) are “[p]ersonnel, ...
12 or similar files, the disclosure of which would constitute an unwarranted invasion of personal
13 privacy” (Cal. Gov. Code § 7927.700); or (2) fit within a catch-all exemption where “the facts of the
14 particular case” demonstrate that “the public interest served by not disclosing the record clearly
15 outweighs the public interest served by disclosure of the record.” Cal. Gov. Code § 7922.000.

16 “Courts apply a three-step analysis in determining whether [either of these exemptions]
17 applies.” *Associated Chino Tchrs. v. Chino Valley Unified Sch. Dist.*, 30 Cal. App. 5th 530, 539
18 (2018). “As a threshold matter, the court must determine whether the records sought constitute a
19 personnel file, ... or other similar file.” *Ibid.* “If so, the court must determine whether disclosure of
20 the information would compromise substantial privacy interests.” *Ibid.* “Lastly, the court must
21 determine whether the potential harm to privacy interests from disclosure outweighs the public
22 interest in disclosure.” *Ibid.*

23 **A. John Doe’s Personnel Records Constitute A “Personnel” Or “Similar File”**

24 Documents containing personal information about an employee to which access is limited to
25 the employee’s supervisors qualify as personnel records. *Associated Chino Tchrs.*, 30 Cal. App. 5th
26 at 539. “The scope of personnel records generally covers records relating to the employee’s
27 performance or to any grievance concerning the employee.” *Ibid.* “The term ‘similar files’ has been
28 interpreted to have a broad, rather than a narrow, meaning.” *Id.* at 540. Documents containing

1 information about an employee that is subject to privacy issues, such as investigations into
2 allegations of misconduct, qualify as “other similar files.” *Id.* at 539-40. “Similar files may simply
3 be government records containing information which applies to a particular individual.” *Id.* at 540.

4 In this case, John Doe’s Personnel Records contain several complaints of misconduct, as well
5 as letters from the District to John Doe memorializing the measures undertaken by the District in
6 addressing the complaints. *See* NOL (Ex. A) and Am. NOL2 (Ex. A), generally. The Personnel
7 Records also contain letters from the District to the complainants confirming the confidential nature
8 of the District’s investigation and assuring the complainants that their concerns have been addressed.
9 *Ibid.* The Personnel Records also contain correspondence from the CTC to John Doe, which states
10 that: “The Committee of Credentials, after careful review and consideration of the materials
11 contained in your file, has determined to close its investigation and to recommend no adverse action
12 at this time.” NOL (PDF pp. 3-15). Because all documents contained in John Doe’s Personnel
13 Records relate to John Doe’s former employment with the District and are generally accessible only
14 by John Doe’s former supervisors, the Personnel Records are of a “personnel” or “other similar file”
15 nature for purposes of evaluating the privacy balancing under Cal. Gov. Code § 7927.700.

16 **B. Disclosure Of John Doe’s Personnel Records Would Compromise Substantial**
17 **Privacy Interests Protected By the California Constitution**

18 The CPRA recognizes the right of privacy in one’s personnel files by the exemption in
19 section 7927.700. *See also BRV, Inc. v. Superior Ct.*, 143 Cal. App. 4th 742, 756-57 (2006); Cal.
20 Constitution, Article 1, § 1. “A person’s interest in preserving the confidentiality of sensitive
21 information contained in his personnel files has been given forceful recognition in both federal and
22 state legislation governing the recordkeeping activities of public employers and agencies.” *Detroit*
23 *Edison Co. v. N.L.R.B.*, 440 U.S. 301, 318 n.16 (1979). The personnel exemption codified in Section
24 7927.700 of the CPRA is indeed “permissive, not mandatory,” and “allow[s] nondisclosure but
25 do[es] not prohibit disclosure.” *Marken v. Santa Monica-Malibu Unified Sch. Dist.*, 202 Cal. App.
26 4th 1250, 1262 (2012) (“*Marken*”). However, a party may bring a reverse-CPRA action by showing
27 that disclosure is “otherwise prohibited by law” based on privacy rights protected by the California
28 Constitution. *Id.* at 1270-71. This is precisely the nature of the case at bar and John Doe’s

1 constitutional privacy rights must be weighed against the public’s interest in disclosure of the
2 Personnel Records.

3 In this case, John Doe’s Personnel Records are the kind of documents that courts have
4 routinely found to implicate substantial privacy interests: they identify allegations of misconduct
5 and the measures undertaken by the District in response to the complaints. *See, e.g., Marken*, 202
6 Cal. App. 4th at 1274-76 (disclosure of allegations of teacher’s misconduct involves substantial
7 privacy interests that must be weighed against public’s right to know); *BRV*, 143 Cal. App. 4th at
8 756-57 (disclosure of report regarding retired school district superintendent’s alleged misconduct
9 involves substantial privacy interests); *Bakersfield City Sch. Dist. v. Superior Ct.*, 118 Cal. App. 4th
10 1041, 1045-47 (2004) (disclosure of a school district employee’s alleged wrongdoing involves
11 substantial privacy interests).

12 Furthermore, the California State Constitution protects John Doe’s right to privacy and
13 accords such right “the constitutional status of an ‘inalienable right,’ on a par with defending life
14 and possessing property.” *Vinson v. Superior Court*, 43 Cal.3d 833, 841 (1987) (quoting Cal. Const.,
15 art. 1, § 1). To establish that certain conduct constitutes an invasion of the state constitutional right
16 to privacy, a plaintiff must establish: (1) a legally protected privacy interest; (2) a reasonable
17 expectation of privacy under the circumstances; and (3) that the conduct at issue constitutes a serious
18 invasion of that privacy interest (“*Hill* Factors”). *Williams v. Superior Court*, 3 Cal.5th 531, 552
19 (2017); *see also Hill v. National Collegiate Athletic Assn.*, 7 Cal.4th 1, 39-40 (1994).

20 Regarding the first *Hill* factor, John Doe has a legally protected privacy interest in his
21 Personnel Records for the factual and legal reasons set forth in Section IV.A. above. Regarding the
22 second *Hill* factor, it is clear that John Doe had a reasonable expectation of privacy in his Personnel
23 Records under the circumstances. The Personnel Records themselves refer on numerous occasions
24 to the “private,” “confidential” nature of the records. *See* NOL (PDF pp. 71, 95, 99, 103); Am NOL2
25 (PDF pp. 10 (District holds “all personnel matters in strict confidence”), 41 (District “can’t comment
26 on personnel matters”). Similarly, the CTC documents and proceedings are confidential and those
27 who appear before the CTC must agree under oath not to disseminate information obtained at the
28 hearing. NOL (PDF p. 5). Finally, for the reasons discussed in Section IV.C. below, producing

1 John Doe's records to a third party without his written consent is a serious invasion of his
2 constitutional right to privacy. As such, John Doe is entitled to the relief requested in this action.

3 **C. Serious Invasion of Privacy Interest: The Potential Harm To John Doe's Privacy**
4 **Interests Outweighs The Public Interest In Disclosure Of The Personnel**
5 **Records**

6 The third *Hill* factor requires a serious invasion of the right to privacy, with the Court looking
7 to whether the violation of the plaintiff's privacy interest is "sufficiently serious in [its] nature, scope,
8 and actual or potential impact to constitute an egregious breach of the social norms underlying the
9 privacy right." *Hill, supra*, 7 Cal.4th 1, 37. There is an "inherent tension between the public's right
10 to know and the society's interest in protecting private citizens (including public servants) from
11 unwarranted invasions of privacy. One way to resolve this tension is to try to determine the extent
12 to which disclosure of the requested item of information will shed light on the public agency's
13 performance of its duty." *Los Angeles Unified Sch. Dist. v. Superior Ct.*, 228 Cal. App. 4th 222, 241
14 (2014).

15 Complaints and the related investigation reports are subject to disclosure if discipline was
16 imposed, even if that discipline was limited to a letter of reprimand. *Marken*, 202 Cal. App. 4th at
17 1254-55, 1274-76. On the other hand, in the absence of such discipline imposed, only when
18 personnel documents contain allegations of misconduct that are both "substantial" in nature **and**
19 "well-founded," courts have tipped the scales in favor of the public interest in disclosure and against
20 individual privacy interests. *Associated Chino Tchrs.*, 30 Cal. App. 5th at 541-43. "Substantial
21 allegations" is a term of art, referring only to alleged violence, threats of violence, or sexual-type of
22 misconduct. *Ibid.* In determining whether the allegations are "well-founded," courts examine the
23 personnel documents for "sufficient indicia of reliability to support a reasonable conclusion that the
24 complaint was well founded." *Ibid.*

25 **1. John Doe Was Never Disciplined For Purposes Of Disclosure Under The**
26 **CPRA**

27 In this case, John Doe was never disciplined for any of the conduct alleged or otherwise
28 described in the Personnel Records. John Doe was placed on a non-disciplinary paid administrative

1 leave while the District was investigating the misconduct complaints against him; the Notice of Paid
2 Administrative Leave expressly stated, “The decision to place you on paid leave is not disciplinary
3 in nature.” NOL (PDF p. 79). After completing its own investigation of the misconduct complaints,
4 the CTC sent a letter to John Doe stating that: “The Committee of Credentials, after careful review
5 and consideration of the materials contained in your file, has determined to close its investigation
6 and to recommend no adverse action at this time.” NOL (PDF pp. 3-15).

7 John Doe only received conference summary memoranda and two written warnings
8 regarding the Hot Mic and the Silent Accolades/Doorway Standing/Face Mask incidents, the latter
9 being a conference summary memorandum that later became a written warning. NOL (PDF p. 25).
10 Courts have distinguished a “warning” and “reprimand”. Within the meaning of *Marken*, only the
11 latter is considered a form of “discipline” requiring disclosure under the CPRA. *See, e.g.,*
12 *Paratransit, Inc. v. Unemployment Ins. Appeals Bd.*, 59 Cal.4th 551, 561 (2014); *Woodland Joint*
13 *Unified Sch. Dist. v. Comm’n on Pro. Competence*, 2 Cal. App. 4th 1429, 1455 (1992); *Catricala v.*
14 *State Pers. Bd.*, 43 Cal. App. 3d 642, 647–48 (1974). Because the warnings issued by the District
15 do not rise to the level of the more severe disciplinary measure of a “reprimand” required under
16 *Marken*, John Doe was never “disciplined” for purposes of disclosing personnel files under the
17 CPRA.

18 **2. The Misconduct Allegations Against John Doe Are Not “Substantial” In**
19 **Nature**

20 The allegations of John Doe’s misconduct are not “substantial,” *i.e.*, the complaints against
21 John Doe did not allege “violence, threats of violence, or sexual-type conduct.” *Associated Chino*
22 *Tchrs.*, 30 Cal. App. 5th at 543. There are no allegations of violence or threats of violence against
23 John Doe in the Personnel Records. *See* NOL and Am. NOL2, generally. As for the term “sexual-
24 type conduct,” it is not clearly defined in the relevant case law. However, the facts in *Marken* and
25 *BRV* clearly involved allegations of not just any “sexual-type conduct,” but sexual harassment in
26 particular. In *Marken*, a teacher was reprimanded in writing following an investigation, which
27 uncovered that he had violated the school district’s policy prohibiting sexual harassment of students.
28 *Marken*, 202 Cal. App. 4th at 1256. In *BRV*, a school district received thirteen (13) letters alleging

1 that a district superintendent and high school principal sexually harassed female students. *BRV*, 143
2 Cal. App. 4th at 747. In this case, as evident from the Personnel Records, none of the allegations
3 against John Doe rise to the level of sexual harassment, sexual abuse, sexual assault, or any other
4 sexual misconduct, and therefore the complaints at issue in this case are anything but “substantial”
5 for purposes of disclosure under the CPRA.

6 One of the elements of a cause of action for sexual harassment requires an allegation that the
7 defendant “made sexual advances, solicitations, sexual requests, demands for sexual compliance by
8 the plaintiff, or engaged in other verbal, visual, or physical conduct of a sexual nature or of a hostile
9 nature based on gender, that were unwelcome and pervasive or severe.” Cal. Civ. Code § 51.9(a)(2).
10 Education Code section 212.5 contains a similar definition. No such sexually harassing conduct is
11 alleged in John Doe’s Personnel Records, which demonstrate – at worst – that John Doe was at times
12 too casual towards students and co-workers.

13 Regarding the alleged Silent Accolades/Doorway Standing/Face Mask incident (Section
14 II.C.1.), there was no indicator or even allegation that John Doe’s conduct was sexual in nature, let
15 alone constituting sexual misconduct. Regarding the alleged Manspreading incident (Section
16 II.C.2.), there are no facts alleged other than John Doe allegedly sitting with his legs open widely.
17 The discussion was not sexual or even inappropriate. A stance alone without further concrete
18 allegations of sexual misconduct cannot be sexual misconduct. Regarding the alleged Hair Touching
19 incident (Section II.C.3.), the allegation itself made it clear that John Doe was in a group with the
20 student discussing the student’s braided hair style when John Doe touched her hair, on a single
21 occasion; this is not sexual. Regarding the alleged Arm Around Shoulder incident (Section II.C.4.),
22 John Doe was walking a male student down the hallway with a casual side arm around the shoulder;
23 this is not sexual. Regarding the alleged Hot Mic incident (Section II.C.5.), the comment was made
24 in the context of a sexual education discussion prior to the presentation and by itself, is not sexual
25 misconduct. The alleged Berating Student/Co-Worker incident (Section II.C.6.) is not a sexual
26 allegation and accordingly is not substantial. In truth, none of the above complaints are “sexual” in
27 nature, meaning they are not responsive to the CPRA request at issue. Nonetheless, given the
28 District’s intent to produce them in response to the CPRA request at issue, John Doe seeks an order

1 precluding such production. Only the alleged Thigh/Shoulder Touching incident (Section II.C.7.), if
2 true, could constitute sexual misconduct but is not “well-founded,” as analyzed in detail below.

3 Tellingly, the District never accused John Doe of any violations of its stringent sexual
4 harassment policies and regulations, despite the District essentially assuming the allegations were
5 true in the various conference summary memoranda and written warnings. The District intentionally
6 chose at the time not to cite to its sexual harassment and/or boundary crossing / grooming policies
7 at that time; instead, it cited to Board Policies 4119.21, 4219.21, and 4319.21 regarding professional
8 conduct, ethical standards, effective communication, leadership, etc. Contrary to the District’s
9 allegation in its Oppositions to John Doe’s *Ex Parte* Application for a Temporary Restraining Order
10 and Motion for Preliminary Injunction, the District never issued a finding of “boundary crossing or
11 grooming behavior.” *Ex Parte* Opp., p. 7:13-14; Prelim. Inj. Opp., p. 10:16-20. The District cannot
12 re-write history now to characterize the allegations as sexual misconduct of a substantial nature
13 when, at the time of the incidents themselves, it did not do so.

14 Based on the information contained in the Personnel Records, the allegations against John
15 Doe clearly fail to rise to the level of any sexual misconduct. John Doe may have occasionally
16 demonstrated lack of best judgment due to his admitted “flair for the dramatics” in his interactions
17 with students and staff (e.g., Section II.C.1. re: Silent Accolades); however, to conclude that the
18 allegations against John Doe are sexual requires a giant leap of imagination, without which the Court
19 should conclude that the allegations are not “substantial” for purposes of disclosure under the CPRA.

20 **3. The Misconduct Allegations Against John Doe Are Not Well-Founded**

21 The allegations of John Doe’s misconduct are not “well-founded,” *i.e.*, the complaints against
22 John Doe fail to reveal “sufficient indicia of reliability” of the allegations contained therein.
23 *Associated Chino Tchrs.*, 30 Cal. App. 5th at 542. Although John Doe has admitted to some of the
24 non-sexual allegations in the complaints against him, to the extent the complaints allege any sexual
25 misconduct – meaning to the extent the allegations satisfy the first requirement of being “substantial”
26 in nature – they lack credibility and John Doe denies such allegations. As explained in more detail
27 above and in the attached Declaration of John Doe, the alleged misconduct largely involved instances
28 of close human interaction between John Doe and students/staff members, during which John Doe’s

1 physical proximity and/or human touch are now misinterpreted by the District as sexual misconduct
2 warranting disclosure under the CPRA.

3 As detailed in the supporting Declaration of John Doe, all incidents alleged in the Personnel
4 Records either have an innocent and completely rational explanation, or have been vehemently
5 denied by John Doe and were never verified by the District. While John Doe admits to giving “silent
6 accolades,” he categorically denied blocking a doorway in such a manner that could be deemed
7 sexual misconduct. Doe Decl. ¶¶ 5-6. Regarding the alleged Manspreading allegation, John Doe
8 contends that he sat next to the complainant with his legs closed, as opposed to behind his desk, to
9 be able to look at the same documents side-by-side with the other person and have a more productive
10 meeting; there is no indicia that his stance was sexual in nature. *Id.* ¶ 8. During the alleged Hair
11 Touching incident, the student was showing John Doe the inner workings of her braid and John Doe
12 touched the braid for an instant when the student held it out for him while in the presence of other
13 people; this explanation undermines any indicia of sexual misconduct. *Id.* at ¶¶ 9-11. During the
14 alleged Arm Around Shoulder incident, John Doe was walking alongside a male student in the
15 hallway, when – to hear the student clearly in the noisy hallway – John Doe leaned in and for an
16 instant placed his hand slightly on the student’s shoulder; this is not sexual. *Ibid.* Regarding the
17 alleged Hot Mic incident, John Doe participated in an informational Zoom meeting regarding the
18 District’s sex education curriculum and shared a story about a student who had asked whether a
19 woman could get pregnant from “sex in the booty hole.” The remark was completely within the
20 context of the conversation during which the participants were sharing innocent questions they had
21 received from students in the past. *Id.* at ¶¶ 12-14. The alleged Berating Student/Co-Worker incident
22 is not a sexual allegation and accordingly is not well-founded or addressed further.

23 John Doe categorically denies the Thigh/Shoulder Touching allegations. Doe Decl. ¶ 18.
24 The District never verified the complaining parent’s allegations. There is no record of the District
25 interviewing students or students’ parents. The District did not interview John Doe, despite the fact
26 that he resigned almost three weeks after the District received said complaint. There is no letter
27 memorializing the District’s investigation. We know this is true because if such records existed,
28 they would have been included in the Personnel Records the District intends to produce in response

1 to the CPRA request, just like the District included in the Personnel Records letters to complainants
2 at the conclusion of the District’s investigation of the complaint. NOL (PDF pp. 45, 51, 59, 71).
3 More importantly, all allegations asserted in the complaint were based on statements allegedly made
4 by three students to a parent (hearsay), including “stories” they had heard from their schoolmates,
5 when prompted by the parent to do so. NOL (PDF p. 19); Am. NOL2 (PDF p. 39). Due to the
6 complete hearsay nature of its allegations, the Thigh/Shoulder Touching complaint contains no
7 indicia of reliability and is therefore not “well-founded.” The police interviewed Doe regarding this
8 matter; charges were never filed. Doe Decl. ¶ 19.

9 The lack of indicia of reliability in the complaints against John Doe is further confirmed by
10 the fact that the District never accused John Doe with any violations of its sexual harassment or
11 grooming policies and regulations, and John Doe was never “disciplined” for purposes of disclosing
12 personnel files under the CPRA. Additionally, the CTC investigated the allegations of misconduct
13 and concluded that: “The Committee of Credentials, after careful review and consideration of the
14 materials contained in your file, has determined to close its investigation and to recommend no
15 adverse action at this time.” NOL (PDF pp. 3-15).

16 Last but not least, the credibility of the complaints against John Doe is further undermined
17 by the multiple letters of support of John Doe’s character, most of which were submitted by his
18 former colleagues to the CTC to assist in their investigation. Doe Decl. ¶ 4 (Ex. A). The letters
19 unreservedly vouch for John Doe’s character and describe him as professional, respectful,
20 supportive, compassionate, and utterly incapable of engaging in any sexual misconduct or grooming
21 toward students and co-workers. *Ibid.*

22 As the above analysis indicates, John Doe’s Personnel Records satisfy the *Hill* Factors and
23 (1) are of a “personnel” nature; (2) implicate John Doe’s substantial privacy interests; and (3) are
24 neither “substantial” nor “well-founded.” Therefore, John Doe’s Personnel Records are exempt
25 from disclosure under the CPRA and the District’s intent to disclose them to the Requester and –
26 effectively – to the public at large runs afoul of John Doe’s privacy protections set forth in the
27 California Constitution. On these grounds, the Court should conclude that the District’s decision to
28 disclose the Personnel Records is unlawful or – at the very least – arbitrary, capricious or entirely

1 lacking in evidentiary support, which necessitates a writ of mandate enjoining the District from said
2 records' disclosure.

3 **V. JOHN DOE HAS NO PLAIN, SPEEDY AND ADEQUATE ALTERNATIVE**
4 **REMEDY AND THUS A WRIT OF MANDATE SHOULD ISSUE ENJOINING THE**
5 **DISTRICT'S DISCLOSURE OF THE PERSONNEL RECORDS**

6 The Requester is a member of the media and therefore, once disclosed, the confidential
7 Personnel Records will likely be made available to the public at large, thereby violating John Doe's
8 constitutionally protected privacy rights and causing grave and irreparable harm to John Doe in the
9 form of embarrassment, harassment, humiliation, and harm to reputation, as well as economic and
10 non-economic injury. Doe Decl. ¶ 23. Allowing disclosure of John Doe's Personnel Records to the
11 Requester would serve no interest other than the most prurient interests of the media and
12 readers/listeners/viewers hungry for fabricated scandal.

13 John Doe has no plain, speedy and adequate alternative remedy at law for the injuries
14 threatened by the District. An award of monetary damages would not provide an adequate remedy.
15 Once the Personnel Records have been released to the Requester and the media, John Doe's privacy
16 will have been violated irreversibly. Worse yet, a gratuitous disclosure of unsupported allegations
17 suggesting a sexual attraction to minors would literally – without any justification – decimate John
18 Doe's personal and professional life. Once branded with one of the most despicable stigmas in our
19 society, no monetary award could even begin to make John Doe whole.

20 Accordingly, the only way to prevent unwarranted irreparable harm to John Doe is to keep
21 the Personnel Records confidential and a writ of mandate should issue enjoining the District, its
22 members, officers, agents, representatives, employees and contractors, and anyone acting on the
23 District's behalf or under the District's direction or supervision, from disclosing any of John Doe's
24 Personnel Records to the Requester or to any other third party.

25 **VI. CONCLUSION**

26 For the foregoing reasons, good cause exists to issue a writ of mandate enjoining the District,
27 its members, officers, agents, representatives, employees and contractors, and anyone acting on the
28 District's behalf or under the District's direction or supervision, from disclosing any of John Doe's

1 Personnel Records to the Requester or to any other third party without John Doe's express written
2 consent. Accordingly, John Doe respectfully urges this Court to grant the instant Motion in its
3 entirety.

4 Dated: January 22, 2025

PRICE, POSTEL & PARMA LLP

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6 By: 

SHANNON D. BOYD

JEFF F. TCHAKAROV

Attorneys for

Plaintiff/Petitioner John Doe

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1. I am the Plaintiff and Petitioner in the above-captioned action. I make this declaration in support of my foregoing Motion for Judgment on Petition for Writ of Mandate. I have personal knowledge of the facts set forth herein, and if called upon to testify thereto, I could and would competently do so under oath.

3. Throughout my 21-year career, I have worked diligently to build relationships with staff, students, and the community. I am big believer in appreciating the work and the efforts that go into it. In my career, I have never been accused of any wrongdoing or anything even closely related to the accusations at issue in this case.

Silent Accolades/Doorway Standing/Face Mask

5. After a District employee assisted in discovering who was responsible for destroying a bathroom with graffiti, I went to her office and expressed appreciation of her efforts. In that, and my generally fun-loving dramatic nature, I told her I was giving her a five or perhaps ten second moment of silent gratitude. This is something that I had done at prior districts and never had an issue with. A few days later, Human Resources informed me that the same employee had filed an official complaint, indicating that the silent gratitude made her feel uncomfortable. Human Resources also stated that she reported that on another occasion, I was standing in a doorway talking to another employee which prevented her and another employee from passing through the kitchen doorway, and simply moved my arm up on the door frame so they could get by rather than moving my entire

body out of the doorway. I have no recollection of the doorway passing situation.

6. Subsequently, I sat down with the Director of Human Resources and the complaining employee to discuss her concerns. In that mediated conversation, I stated that I had no recollection of standing in her way, as I would typically get out of the way if I knew that someone needed to pass through. That said, I apologized if anything including the “silent gratitude” made her feel uncomfortable, as that was not my intention. I told her I would be more mindful moving forward, and that she is always welcome to come to me if she has any concerns moving forward. I have always worked very hard to appreciate staff and students in many ways, as this is often overlooked by school administration, and important for culture. At the time of these incidents, I was never informed nor did I believe that the employee’s complaint was sexual in nature or involved an allegation of sexual harassment.

7. Around this same time, Human Resources informed me that there had been reports of me “fidgeting with [my] mask while talking, resulting in placement of the mask under [my] nose, and pulling down [my] mask below [my] chin while in indoor staff meetings.” This was during the COVID-19 pandemic, when masks were still mandatory when indoors and in the presence of others. There were times that I, as well as others, fidgeted with our masks. There were a few times that my mask was below my chin during staff meetings, but only when I was either eating a small snack or if presenting more than 10 feet away from staff members. Even in those cases, my mask was only down for a few moments and then placed back up. The only other times I would pull my mask down was in my office when I was alone, which was allowed, walking out of the bathroom, and when outside the building with no staff or students around. I would put my mask back up when I re-entered the building. Once this concern was brought to my attention, I kept my mask on.

Manspreading

8. I needed to meet with an employee to review and discuss certain documents and asked her to come to my office. She entered my office, sat by my desk and I did not close the office door during the meeting. As I would usually do when looking at documentation with a colleague, I sat next to her so that we could view the material side-by-side and have a more productive meeting. In these instances in the past, I have found that sitting next to instead of across from an employee

1 had been received as a sign of respect and teamwork. My goal was to show respect to her and get
2 her much needed feedback regarding the documents. It was important that we look at the same
3 document together at the same time, which would not have been possible if we were across a table
4 from each other. It was not to make her feel uncomfortable in any conceivable way. The entire time
5 I sat next to her my legs were closed, as I mostly leaned forward as we both reviewed the material
6 on my desk. At no point did I spread my legs apart from each other or sit back in a “salacious” way.
7 I found the meeting to be very successful and productive.

8 **Hair Touching & Arm Around Shoulder**

9 9. A District employee complained about seeing me touch a female student’s hair, and
10 another employee complained about seeing me put my arm around a male student’s shoulder while
11 walking down the hallway. When I was first informed of both accusations, I was very surprised and
12 alarmed that these were student-related complaints. It has been my long practice of building
13 relationships with students and families. I do this in a variety of ways. Usually, during unstructured
14 time, I ask students about their lives, their family, how their weekend was, and/or how school is
15 going. I ask them about their friends and share stories of my own. It has been the cornerstone of my
16 success for 21 years working with middle school youth. To now have this practice come under attack
17 shook me.

18 10. With respect to the female student’s hair, I complimented her because it looked like
19 she put a lot of care and effort into her hair style. I wanted to build her self-esteem and self-pride by
20 telling her that I thought her hair looked very well done. She showed me the inner workings of her
21 braid and I touched it for an instant when she held it out for me. I asked her who did it and if it hurt.
22 She appreciated the gesture and the compliment. It was a very brief moment, and was not
23 inappropriate in any way. Other people were present during this interaction.

24 11. As for the complaint of me walking with my hand around a male student’s shoulders,
25 I admit that this occurred, though not the way it was described in the complaint. I was simply walking
26 in the hallway and checking in with a student while he was walking to class. To hear him clearly in
27 the somewhat noisy hallway, I leaned in and placed my hand slightly on his shoulder. This was not
28 an inappropriate placement and it was not sexual.

Hot Mic

12. Shortly before the start of a parent informational Zoom meeting regarding the District's sex education curriculum, I was in the Zoom room with several co-workers and a consultant who was contracted to come to the school and lead the classes. Prior to any parent being allowed to enter the Zoom meeting, we had some extra time and so we began discussing as a small group what would be covered in the meeting. The outside contractor who was going to teach the material began to share some cute, funny stories of questions that students had asked her in the past regarding sex education. These were sweet, innocent questions from students which gave all of us a laugh. She went as far as showing us the index cards where the questions were written while reading them aloud. We all found some humor in student framing and curiosity. It was innocent as we waited for the meeting to start. After others had shared some stories, I shared a story where a student had asked whether a woman can get pregnant from "sex in the booty hole" or something to that affect. It was completely within the context of the conversation that was taking place, as we were simply sharing funny questions that students had asked in previous years. The question that I shared took place prior to the meeting starting, no parents or students were on the Zoom, and there had been no indication that the meeting was being recorded. As we allowed parents to enter the Zoom room, it was announced that the recording was first starting. I left the meeting thinking that it was successful and having no idea about any "hot mic" incident.

13. Later that evening, I was informed that the recording of the meeting was sent out by a few teachers and that the recording somehow contained the ending of my story where the student had asked about getting pregnant from "sex in the booty hole", despite the fact that this was prior to the parents being let into the Zoom meeting and prior to the Zoom notification that the meeting was being recorded. I still don't know how or why that portion was recorded and sent to staff and families. We were unclear which teacher sent it out or how it was sent, as the traditional means to send out messages was not used. The following morning, I awoke to an email informing me that I was on paid administrative leave pending investigation into the incident.

14. The Zoom recording itself is incredibly strange. The recording is silent for the first approximately ten seconds then, out of nowhere, is my statement about "sex in the booty hole," and

1 then nothing further. This makes no sense to me. I was there and recall that there was a whole
2 conversation, as described above. I did not randomly make that statement. I have no idea why that
3 statement was recorded, and was the only thing recorded, and then placed on the Zoom that was
4 shared with parents. From the video, it almost sounds like there was a voice recording of me dubbed
5 onto the screen. I hate to sound paranoid, but the video is illogical in so many ways. The District
6 informed me that they did not know where it originated (meaning who sent it out), how it was
7 disseminated (meaning which platform was used), or who it was even sent to. For this reason, I could
8 not send anything out to parents by way of apology because I was told that the District did not know
9 which parents had seen the video. Truly, it makes no sense to me and all I was trying to do was tell
10 a contextually appropriate story about sexual education to a small group prior to a sexual education
11 meeting.

12 15. When I returned to work, it became clear that staff wanted to sit down to discuss the
13 incident and learn about what happened. I voluntarily held a staff meeting the following day to
14 address the concern. Members of the staff demanded that Human Resources attend the meeting,
15 which they did. Before the meeting, I met with the District's leadership and shared my statement in
16 advance. I was told to allow the staff to share their thoughts and to not get defensive if I was under
17 attack. I met the staff, shared a brief statement regarding the context of the "hot mic" incident, and
18 admitted that I should have refrained from sharing the student's question.

19 16. The following day, the District's Superintendent called me to her office to inform me
20 that more staff complaints came in that day and I was going back on administrative leave
21 immediately while they figured out what was going on. When I asked for information regarding the
22 complaints, she would not share other than to say that Human Resources would follow up. She stated
23 that my leave would be longer this time as the District needed to "investigate". Again, I had no idea
24 at this point what the complaints were.

25 17. I later found out that the same day I was placed on non-disciplinary leave, the
26 Superintendent met with staff and informed them that I would not be returning to work. Parents were
27 also informed of this in writing. The only person not informed of this was me. I learned of this a few
28 days later when I was texted by a friend of mine, whose neighbor was a student at the District and

1 received a notification that I was not coming back. At that point, I knew that I had no future with the
2 District, regardless of the outcome of an investigation into any new complaints.

3 **Thigh/Shoulder Touching**

4 18. While on leave, I received a phone call from the Mill Valley Police Department
5 Detective, stating that he needed to talk with me about a parent concern. I met with him and another
6 officer. I was informed that a student accused me of inappropriately touching her thigh and squeezing
7 her shoulders one day during lunch. I was shocked to hear this accusation and immediately expressed
8 that I had no idea what he was talking about because this did not happen. Out of the allegations that
9 I faced during my employment with the District, this is the only one that I simply cannot explain
10 other than to state that it is absolutely 100 percent untrue. At no point during my employment at the
11 District, nor any other school site in my 21 years of public service, have I ever touched a student in
12 an inappropriate way. This is the first time I have been accused of such conduct. When I was first
13 informed of this allegation, it made me sick to my stomach. I have absolutely no idea where this
14 accusation stems from, or how it could have come to be. I have worked diligently throughout my
15 career in education on building appropriate relationships with students, families, and staff. The
16 District never interviewed me regarding this allegation, although it is likely they were waiting for
17 the police investigation to conclude.

18 19. To my knowledge, there is no further police investigation underway nor has the
19 parent or student initiated any legal action against me or the District in relation to the Thigh/Shoulder
20 Touching allegation.

21 **Resignation**

22 20. When I met with the Superintendent and the Director of Educational Technology and
23 Secondary Learning, the Superintendent told me that she was worried about my continuance at the
24 District for my own well-being, as the staff really rallied against me. It became apparent that
25 resignation would be the best move for me, as I had no future at the District in the long term. They
26 would not tell me what allegations were pending against me. Looking at the big picture, and the
27 knowledge that the Superintendent had already informed staff and community that I would not be
28 returning, I opted to resign my position formally and move on from this awful experience. This was

1 not a resignation in lieu of termination. The District never threatened me with termination or
2 disciplinary action if I did not resign. I chose to resign rather than continue to face a seemingly
3 endless stream of complaints ranging from things as simple as me giving someone silent praise to
4 false allegations of improper touching.

5 Credibility

6 21. There are numerous factors which support my credibility. First, prior to these
7 incidents, I had never been investigated in my 21 years in the profession nor have I been investigated
8 since. Second, as demonstrated from the letters of support I am submitting, I have good moral
9 character.

10 22. In my twenty-one years of working with youth in California, I have prided myself in
11 my ability to build connections and appropriate relationships with staff, families, and students. I am
12 an equity-minded educator who genuinely cares about his students, and will advocate strongly to
13 ensure they are provided the appropriate support and opportunities. It is NEVER my intention to
14 make anyone feel bad, or uncomfortable. I am a believer in finding creative ways to appreciate staff
15 and compliment students, with the goal of building positive culture and self-concept. When informed
16 of an action that may have done the contrary, I am the first to hold a meeting, hear the person out,
17 and reflect on my practice. I had minimal opportunity to address the concerns that occurred there, as
18 Human Resources rarely informed me of who exactly raised concerns. In my experience in every
19 other district and site where I have worked, I never encountered these concerns. As stated above, I
20 have NEVER touched a student inappropriately, nor have I ever been accused of doing so prior to
21 my experience at the District. I have also never been accused of making sexually inappropriate
22 comments or non-verbal motions at any point during my career prior to my experience at the District.
23 The CTC found that the accusations did not warrant any further investigation or adverse action.

24 Harm

25 23. The District has threatened to disclose documents from my personnel file
26 ("Personnel Records") to Real Party in Interest Holly McDede ("Requester"). The Personnel
27 Records contain unfounded allegations of misconduct during my employment with the District. The
28 Requester is a member of the media and, once disclosed, the confidential Personnel Records will

1 likely be made available to the public at large, thereby causing me grave and irreparable harm in the
2 form of embarrassment, harassment, humiliation, and harm to my reputation in the community, as
3 well as economic and non-economic injury. The release of documentation surrounding these
4 unfounded accusations will result in defamatory consequences with no basis or benefit to anybody.
5 I hope to move past these concerns and continue to do the important work to support students,
6 families, and staff as an educator in the state of California.

7 I declare under penalty of perjury under the laws of the State of California that the foregoing
8 is true and correct. This declaration is executed on this 22nd day of January 2025 at Alameda,
9 California.

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12 _____
13 JOHN DOE
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EXHIBIT A

Della Hsiao
4750 Tassajara Rd, Apt 5114
Dublin, CA 94568

January 6, 2023

Commission on Teacher Credentialing
Division of Professional Practices
1900 Capitol Avenue
Sacramento, CA 95811

To Whom It May Concern:

This letter is in support of Mr. [REDACTED] and the accusations he has wrongly faced by staff at Mill Valley Middle School, 245 Sycamore Ave.. Mill Valley, CA 94941.

Being aware of the egregious allegations against Mr. [REDACTED] compels me to stand up to such wrongdoing. Mr. [REDACTED] has been accused of inappropriate sexual actions in the way of comments and behavior such as not moving completely out of the way of a doorway so that an employee would have to 'rub up against him'. The mere actions of typing this out disgusts me as I know these are behaviors that would never be exhibited by Mr. [REDACTED].

I met Mr. [REDACTED] in August 2014 when I began my career with San Lorenzo USD. At the time I was the Attendance Technician and Mr. [REDACTED] was [REDACTED] at Bohannon Middle School. I worked closely with Mr. [REDACTED] having sat in meetings with him 1:1 and with other staff/families and he came to my office to [REDACTED] in different aspects of my position; never once did I ever feel uncomfortable in the 4 years I had the privilege to work with him. Contrarily, he proved to be a mentor which helped with my growth to the current position of Executive Assistant of Business Services at San Lorenzo USD. In the position I currently hold, I have seen many litigations come through my desk and am well aware of liabilities districts face when it comes to behaviors of an inappropriate nature. Therefore, I would in no way support a person who I thought could conduct themselves in such a manner.

In a conversation with a few teachers this past summer we were discussing staff changes that have taken place at Bohannon Middle and the teachers had all made a comment on how they wished Mr. [REDACTED] was back at Bohannon. Why? Because he makes a difference in the lives of the students and staff. He is a genuine educator [REDACTED] whose clear endeavor is to help the youths apply themselves so they can have a solid future. He exerts the same amount of energy by investing his time to help them learn so they can be confident in their roles and grow.

Below is what I want to express and for the CTC to carefully understand in looking at the allegations against Mr. [REDACTED]:

- These allegations are appalling and unfathomable with no merit.
- My personal interactions and the interactions I have seen with Mr. [REDACTED] along with students, families and staff have been nothing but professional. Never once have I so much as had an inkling of inappropriate behavior with students, families or staff.
- Would I speak up in a court of law to defend Mr. [REDACTED]? Yes, because I firmly believe through experience that he is a person of integrity and transparency and would in no way ever cause physical or emotional harm to another person.

Thank you for taking the time to read and consider the information I have shared with you. I sincerely hope that through your investigation you will come to the same conclusion which is Mr. [REDACTED] is not guilty of the accusations presented nor is he the type of person that would ever behave in such a manner. If you should have any questions please don't hesitate to contact me via my cell at 765-490-2134 or email at dellahsiao@gmail.com.

Sincerely,



Della Hsiao

January 18, 2023

Dear California Commission on Teacher Credentialing,

I am writing this letter in support of [REDACTED]. I am aware of the allegations of sexual harassment and inappropriate touching of kids brought against him. My acquaintance with Mr. [REDACTED] was in my role as a teacher [REDACTED]. In my two years of working with him, I have never experienced or witnessed any of the alleged behavior. He has shown the utmost respect, professionalism, and compassion for staff and students in our school. The two years I worked with him we entered the first year of the Covid pandemic, where we all taught and interacted via zoom.. I have only known Mr. [REDACTED] to be professional, and believe the allegations brought against him are baseless. Mr. [REDACTED] was extremely supportive of my [REDACTED] needs as a classroom teacher, and introduced the art of gratitude for our entire staff, [REDACTED]. He has never exhibited or participated in any inappropriate or sexual behavior with kids or staff. Given the nature of these allegations, I find it highly unlikely Mr. [REDACTED] committed any of these against staff or students.

As an educator in the field for 17+ years, I have contact with other people and I'm well aware of Mr. [REDACTED]'s professionalism [REDACTED]. In other districts, He has never exhibited this behavior in any of those places either. He is a man of high moral character, and academic integrity, and only cares for the best for his staff, and the students [REDACTED].

Please feel free to reach out to me. If you have any questions, my email is dbrenner@smfc.k12.ca.us.

Sincerely,



Dawnette Brenner
K-12 teacher - MSed

To the California Commission on Teacher Credentialing,

My name is Naomi Goodman. I am a math teacher in good standing at Abbott Middle School, and the math department chair for the last several years. I am writing to express my support for my fellow educator and colleague [REDACTED].

I have been made aware of allegations against him from Mill Valley Middle School concerning inappropriate conduct of a sexual nature, in interactions with both students and staff. I find these claims outrageous. I worked with [REDACTED] for two years, during which time he never displayed behaviors fitting these descriptions.

In working with [REDACTED] I found him to be a responsive, caring, and engaging person. He made time to meet with [REDACTED] representatives (myself included) in order to better keep all [REDACTED] in the school on the same page. He created positive [REDACTED] to help our teacher community grow closer to one another, like our gratitude jar, where teachers could drop anonymous positive notes that would be read aloud at staff meetings. He worked closely with our [REDACTED] to balance restorative practices with more traditional discipline structures, helping to re-engage disaffected students while still holding them to practical consequences.

In [REDACTED] meetings, I felt respected as a colleague and professional. I also felt that way when we met as [REDACTED] representative [REDACTED]. I never once felt objectified or like [REDACTED] was interacting with myself or any of my colleagues in a sexual manner.

When interacting with students, I observed [REDACTED] to be stern when necessary, but also kind and humorous. Middle school students are at an awkward stage of their lives. They both want and need the love and acceptance of the adults around them, while also needing strict boundaries as they explore their own independence. While no one can succeed at doing that perfectly, the interactions I observed [REDACTED] make with my students were all made from a place of genuine caring and desire to keep the school a safe place. I never observed him treating a student in a way that was sexually motivated.

As my school has [REDACTED], I can honestly say that I miss the partnership of [REDACTED] at the time. The two made [REDACTED] and were starting to [REDACTED]. The thought that spurious allegations might prevent him from being able to do good work at another school is frankly depressing. We need good administrators, teachers, and support staff more than ever right now, and I am hopeful that your investigation will enable [REDACTED] to continue to do good work for many years to come.

Sincerely,
Naomi Goodman
Abbott Middle School
1/16/2023



TO: California Commission on Teaching Credentials Committee
FROM: Peggy Arman *Peggy Arman*
RE: [REDACTED]
DATE: January 16, 2023

In my capacity as the principal of Bohannon Middle School in San Lorenzo, California, I worked with [REDACTED]; he was [REDACTED]. He and I were a part of a close-knit, [REDACTED] who worked long hours, and we got to know each other as professionals as well as individuals. Our [REDACTED] team has continued to stay in contact with each other to date. More than colleagues, we have known each other as educators, parents, and friends through changes in jobs or professions, challenges, and achievements. I believe I can speak to [REDACTED]'s personal and professional persona.

In Title I schools, the hours and magnitude of work can be daunting if you don't have a cohesive, dedicated team that truly cares about children and supports the educators tasked to work with them. [REDACTED] was an integral part of [REDACTED] team; he worked tirelessly to support students, parents, and teachers at Bohannon. His impact at the school was positive.

Students don't follow what adults say but what they see adults do. [REDACTED] was a good example for students, and in my experience with him, he was not inappropriate. He worked well with faculty and staff providing praise for a job well done as well as constructive feedback to improve performance. The faculty knew they could count on him to address [REDACTED] matters appropriately and hold a high academic standard. [REDACTED] is a master teacher himself and was held in high regard. Effectively communicating with students and teachers was followed up by meeting with or informing parents.

Equity and restorative justice are philosophical values [REDACTED] holds, and his actions reflect his beliefs. I have found him to be a man of integrity. I am aware of the complaints/allegations brought forth by some members of the Mill Valley Middle School (MVMS) staff. During my tenure working with [REDACTED], I did not witness him being sexual with students or making inappropriate comments to faculty or staff. The complaints and allegations made by some MVMS personnel are not in keeping with the behaviors I observed nor the person I know.

Sept 30, 2024

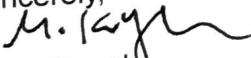
To Whom It May Concern,

I am writing to attest to the professionalism and character of [REDACTED]. I have had the pleasure of working with [REDACTED] in two different capacities. For four years, I worked side by side with him as a fellow [REDACTED] at Elmhurst Community Prep; I also taught for a year [REDACTED] at Montera Middle School. In all of that time, I knew him to be respectful, supportive, compassionate and professional.

I am aware of the accusations towards him regarding alleged inappropriate physical contact with students. In the 15 or so years I've known [REDACTED] and in the five years I worked with him, I never witnessed or heard mention of him touching a student in an inappropriate fashion. I have seen [REDACTED] have countless positive interactions with both students and staff. I was informed that one of the allegations against him is that he told the student body that he loved them [REDACTED]. When we worked together in Oakland, we regularly told our classes that we loved them. That was the nature of our school community at large. I am troubled to hear that this gesture of appreciation and care – made publicly to the entire student body – would be cause for repudiation. As for his physically touching students: while I've seen him put his hand on a student's shoulders before in an expression of concern or care, I've never seen or heard of him touching students in a more intimate way.

[REDACTED] is a great person and educator. Not only is he a strong [REDACTED], but he brings positivity, appreciation, and kindness to school communities.

Sincerely,


Kelly Quayle

January 15, 2023

Commission on Teacher Credentialing
Division of Professional Practices
1900 Capitol Avenue
Sacramento, CA. 95811

To Whom It May Concern,

I had the pleasure of working with Mr. [REDACTED] for five years while he was [REDACTED] at Bohannon Middle School in San Lorenzo. I am the lead science teacher and worked with Mr. [REDACTED] and interacted with him in various ways.

Mr. [REDACTED] was a professional [REDACTED] when interacting with students, staff and parents. I always saw that he greeted everyone by name, was approachable and personable. The only time I saw him touch another person was to shake someone's hand as a greeting or before leaving. Mr. [REDACTED] never made me feel uncomfortable for any reason. He was a safe person to go to for advice, support or to vent.

I had the pleasure of attending an AVID conference in Florida with [REDACTED]. Whether on the plane, at the conference, in the bus going to various sessions or at meals, Mr. [REDACTED] always conducted himself in a respectful manner. Not once did I ever feel like he got too close to me, too friendly with me or act inappropriately in any way. The group of us spent a lot of time together on this trip and Mr. [REDACTED] was professional as always and never did I hear any of the other people in our group complain of his behavior towards them either.

I understand the accusations that Mr. [REDACTED] is facing and I am appalled. Nothing that I have seen, heard or experienced with Mr. [REDACTED] would make me think he would do ANY of the things he is being accused of by the staff in Mill Valley. He has never touched staff or students, made inappropriate comments, or "manspread" and I have never heard rumors from staff or students that he had done any of those things either.

I feel like Mr. [REDACTED] was being targeted because the staff wanted [REDACTED]. It seems like they took things out of context, exaggerated, lied and embellished in hopes to drive Mr. [REDACTED] out. It's a shame that a staff can make up lies, bully a person and start investigations that have such devastating effects. Mr. [REDACTED] does NOT deserve to have these lies told about him and he deserves to keep his credentials and continue his career in education.

Would I recommend Mr. [REDACTED] for a job in education? Absolutely. Would I be comfortable with my own children being under his supervision? Absolutely. Do I think Mr. [REDACTED] is a hard working, knowledgeable [REDACTED] who conducts himself in a professional manner at all times? Yes, absolutely.

If you have further questions, please contact me anytime.


Julie Ramirez
510-755-5458

January 15, 2023

Commission on Teacher Credentialing
Division of Professional Practices
1900 Capitol Avenue
Sacramento, CA 95811

To Whom It May Concern:

I am writing this letter to show my strong support of [REDACTED]. I worked with Mr. [REDACTED] at Bohannon Middle school [REDACTED]. I started my position as school counselor at Bohannon in 2007. The role of counselor at Bohannon includes working closely with the administration, students, teachers and parents. My work with Mr. [REDACTED] was mostly around student discipline and students' social and emotional needs. Counselors and [REDACTED] communicated daily. The Bohannon faculty and staff are a close knit and caring group of educators.

I was shocked when I learned about the allegations of a sexual nature made against Mr. [REDACTED] by the Mill Valley Middle School Community. During my 5 years working with him I never experienced, witnessed or heard about any behaviors like those for which he is being accused by MVMS.

Mr. [REDACTED] took pride in knowing our students well, better than some other [REDACTED] I've worked with. In fact, I was impressed by how respectful, fair and encouraging he was with our students in their academics and behavior. After working with a student around behavior Mr. [REDACTED] often took an extra step and referred the student to their counselor when he believed they required social and emotional support. Mr. [REDACTED]'s approach to discipline was not punitive in nature. He used a restorative justice approach in his work with students. As a counselor I benefited by many of Mr. [REDACTED]'s insights around students and staff. I trusted Mr. [REDACTED] to work with all members of our community with integrity. I heard from many parents who trusted him to be fair in his work with their students. Teachers and clerical staff were comfortable working with him as well. Mr. [REDACTED] went out of his way to be respectful towards our clerical and school support staff. I never heard any member of the Bohannon staff express any type of discomfort while in Mr. [REDACTED]'s presence.

I appreciated working Mr. [REDACTED] because he is a strong, caring and involved [REDACTED] who prides himself on getting to know and understand his school community. In my 25 plus years in education, as a counselor, Mr. [REDACTED] is one of the best intentioned and hardworking [REDACTED] with whom I have worked. Education needs more [REDACTED] with dedication like [REDACTED].

Sincerely,
Joanne Keenan



1-14-23

To The Commission on Teaching Credentialing

Division of Professional Practices

1900 Capitol Avenue

Sacramento, CA. 95811

To Whom It May Concern,

This letter is on behalf of Mr. [REDACTED]

[REDACTED]. I am aware that he has been accused of multiple inappropriate instances at his previous school of employment, Mill Valley Middle School, and is being investigated for the validity of these accusations. I am the Administrative Assistant to the Principal at Antioch Middle School, and I am stepping forward as a colleague who has seen Mr. [REDACTED]'s work ethic and attitude, and I believe that any and all claims of inappropriate behavior about Mr. [REDACTED] are false and slanderous in nature. In the time that I have known Mr. [REDACTED], he has maintained a consistent professional demeanor, and he consistently shows that he is passionate about his work and has genuine care for his students, student parents, and coworkers alike. His "can-do" attitude, no matter the gravity of the situation, is admirable. Mr. [REDACTED] has shown that he is kind, and caring. He is often lively, and it is apparent that he puts passion and soul into his everyday work. In the entire tenure of working together, never have I witnessed him touching any student, parent, or coworker inappropriately, nor have I received any reports of anyone feeling vulnerable or uncomfortable after interacting with him. If given the choice to work with Mr. [REDACTED] in a professional setting in the future, I would recommend hiring him again and again.

Sincerely,



Heather Stead

School Administrative Assistant II

Antioch Middle School

Commission on Teacher Credentialing
Division of Professional Practices
1900 Capitol Avenue
Sacramento, CA 95811

Jan 15, 2023

To Whom It May Concern:

This letter is to address the hearing regarding [REDACTED] and the accusations he experienced at Mill Valley Middle School. I am aware of the allegations against him and the specific issues of inappropriate body language, man spreading, comments of a sexual nature and touching students. I will address these specific issues in this letter

I am a teacher in San Lorenzo Unified and I have been at this position for 21 years. Prior to this position, I served as a police dispatcher who experienced incidents of inappropriate behavior from male police officers. I retired on January 14, 2023. I have addressed issues with specific officers that I found unprofessional as I believe communication with the individual was the first step. I never had to file any complaints with those in supervisory positions.

[REDACTED] was [REDACTED] at Bohannon Middle School for 5 years. We had numerous interactions while he was [REDACTED]. Every interaction was professional and there was never an occurrence where [REDACTED] made any inappropriate comments, gestures or innuendos that made me feel uncomfortable. His body language, specifically man spreading, was never done in my presence. [REDACTED] has never ever made inappropriate sexual comments to me and I find it appalling that this would be an accusation. I have never heard him, in any setting, make a comment that would make someone uncomfortable or was sexual in nature.

[REDACTED] is not the type of man that the Mill Valley staff has described in their accusations. He is very professional and a highly effective [REDACTED]. He is respectful to [REDACTED] staff and will offer advice when needed. While [REDACTED] at Bohannon he was the go-to person for discipline issues and was always the utmost professional.

I have never seen [REDACTED] touch a student inappropriately, make a comment or be disrespectful to a student. Students respected him and he always had a good, professional relationship with every student at Bohannon.

[REDACTED] is a kind man who respects everyone. The accusations from the staff at Mill Valley Middle School do not reflect the man I know. If any educator felt

uncomfortable then it was their responsibility to address the issue with the person so that he/she is given the chance to explain or correct the behavior. We have this expectation of our students. If a student makes an inappropriate comment it is addressed with the student so he/she is given the opportunity to correct the behavior. Why was this same courtesy not given to [REDACTED]?

These accusations are retaliatory and are meritless. It is unfortunate that these educators would stoop this low to get rid of [REDACTED] they didn't want. He was never given a chance to prove he could do the job. Their professionalism is questionable and attempting to destroy a person's career is inexcusable.

Please contact me if you have any questions.

Sincerely,

Suzanne Evans / Suzanne Evans

Suzanne Evans
Bohannon Middle School
sevens@slzusd.org
510-213-0664

DECLARATION OF SHANNON D. BOYD

I, Shannon D. Boyd, hereby declare and state as follows:

1. I am a partner with the law firm of Price, Postel & Parma LLP, counsel of record for Plaintiff and Petitioner John Doe (“John Doe”). I make this declaration in support of John Doe’s foregoing Motion for Judgment on Petition for Writ of Mandate. I have personal knowledge of the facts set forth herein, and if called upon to testify thereto, I could and would competently do so under oath.

2. My research indicates that Real Party in Interest Holly McDede (“Requester”) is a reporter, editor and producer employed by KQED – a news media outlet based in San Francisco, California.

3. On or about June 7, 2024, Defendant and Respondent Mill Valley School District (“District”) received from the Requester a request (“Request”) under the California Public Records Act. The Request sought public records related to claims of sexual harassment, sexual assault, or boundary crossing or grooming behavior made regarding teachers or other employees of the District. The Request also sought public records related to claims of sexual harassment, sexual assault, or grooming made to the California Commission on Teacher Credentialing from 2014 to the date the Request is fulfilled.

4. On or about August 23, 2024, the District provided notice of the Request to John Doe (“Notice”), informing John Doe that the Request implicates his personnel documents concerning his previous employment with the District, including documents regarding allegations of sexual misconduct, sexual harassment, and/or grooming related to students. Attached to the Notice were some of John Doe’s personnel records containing documents relating to complaints of misconduct which allegedly took place during John Doe’s employment with the District (“Personnel Records”). While the District redacted names of third parties from the Personnel Records, the District did not redact any of John Doe’s personal identifying information.

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1 5. I was subsequently informed by counsel for the District that the District intends to
2 disclose John Doe's Personnel Records to the Requester not later than September 13, 2024, unless
3 a court order mandates otherwise.

4 I declare under penalty of perjury under the laws of the State of California that the foregoing
5 is true and correct. This declaration is executed on this 22nd day of January 2025 at Santa Barbara,
6 California.

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SHANNON D. BOYD
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am employed in the County of Santa Barbara, State of California. I am over the age of eighteen (18) and not a party to the within action. My business address is 200 East Carrillo Street, Fourth Floor, Santa Barbara, California 93101.

On January 22, 2025, I served the foregoing document described as **PLAINTIFF/PETITIONER JOHN DOE'S NOTICE OF MOTION AND MOTION FOR JUDGMENT ON PETITION FOR WRIT OF MANDATE** on all interested parties in this action by the original and/or true copy thereof enclosed in sealed envelopes, addressed as follows:

Roman J. Munoz, Esq.
Jaspreet Lochab-Dogra, Esq.
LOZANO SMITH
One Capitol Mall, Suite 640
Sacramento, CA 95814
(916) 329-7433
jlochab@lozanosmith.com
rmunoz@lozanosmith.com
lsoares@lozanosmith.com

Attorneys for Mill Valley School District

David Loy, Esq.
Ann Cappetta, Esq.
FIRST AMENDMENT COALITION
534 4th Street, Suite B.
San Rafael, CA 94901
(415) 460-5060
acappetta@firstamendmentcoalition.org
dloy@firstamendmentcoalition.org
esanchez@firstamendmentcoalition.org
regnier@firstamendmentcoalition.org

Attorneys for Real Party in Interest Holly McDede

- ☐ BY MAIL: I placed the original and/or true copy in a sealed envelope addressed as indicated herein. I am readily familiar with the firm's practice of collection and processing documents for mailing. It is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.
- ☒ BY E-MAIL: I caused to be e-mailed a true copy to the e-mail addresses listed herein.
- ☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- ☐ **(FEDERAL)** I hereby certify that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on January 22, 2025, at Santa Barbara, California.

Aeria Bolden

Signature
Aeria Bolden