

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 01/29/25 TIME: 1:30 P.M. DEPT: H CASE NO: CV2002000

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: ALINA ANDRES

PLAINTIFF: HUGHES & COMPANY
CONSTRUCTION, INC.

vs.

DEFENDANT: GOLDEN GATE
BELVEDERE, LLC, ET AL

NATURE OF PROCEEDINGS: MOTION – GOOD FAITH SETTLEMENT

RULING

Plaintiff Hughes & Company filed a motion for determination of good faith settlement with Todd Morris Fire Protection, Inc. A notice of hearing was served on the remaining non-settling parties, and no opposition was filed. A failure to oppose a motion may be deemed a consent to the granting of the motion. (Cal. Rules of Court, rule 8.54, subd. (c).) Failure to oppose a motion may also lead to the presumption that [plaintiff] has no meritorious arguments. (See *Laguna Auto Body v. Farmers Ins. Exchange* (1991) 231 Cal. App. 3d 481, 489, disapproved of by *Garcia v. McCutchen* (1997) 16 Cal.4th 469, on other grounds.)

Accordingly, the motion for determination of good faith settlement with Todd Morris Fire Protection, Inc. is GRANTED.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

The Zoom appearance information for January, 2025 is as follows:

<https://marin-courts-ca-gov.zoomgov.com/j/1615487764?pwd=Ob4B5J7LLKcpnkxzJjjEOSHNzEGafG.1>

Meeting ID: 161 548 7764

Passcode: 502070

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 01/29/25 TIME: 1:30 P.M. DEPT: H CASE NO: CV2001374

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: ALINA ANDRES

PLAINTIFF: JUAN CAAMAL

and

DEFENDANT: TRG CA EMPLOYMENT,
INC., ET AL

NATURE OF PROCEEDINGS: MOTION – OTHER: FINAL COMPLIANCE HEARING ON
MOTION FOR APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

RULING

This matter is on for final compliance hearing following final approval of the settlement agreement. Having received the declaration of Ms. McCreedy, setting forth the distribution of funds, and barring valid any objection at the hearing, the court shall sign the proposed amended judgment.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 01/29/25 TIME: 1:30 P.M. DEPT: H CASE NO: CV2203062

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: ALINA ANDRES

PLAINTIFF: JANE DOE (F.T.)

vs.

DEFENDANT: DOE #1, ET AL

NATURE OF PROCEEDINGS: MOTION – COMPEL; DISCOVERY FACILITATOR PROGRAM

RULING

Plaintiff Jane Doe (F.T.) (“Plaintiff”)’s Notice of Motion and Motion to Compel California Commission on Teacher Credentialing (“CCTC”) to Produce Records Subpoenaed by Plaintiff is GRANTED.

Factual Allegations

This is a childhood sexual assault case. Plaintiff alleges that when she was a 17-year-old student at San Rafael High School in 1993/1994, she was sexually assaulted by defendant Tim Bosque (“Bosque”), a teacher and coach at the school, on and off campus. Plaintiff alleges San Rafael City Schools (“District”) knew or should have known Bosque was unfit and posed a risk of harm due to his engaging in sexual assault and abuse of multiple students, and that the District did not intervene to protect Plaintiff or otherwise report the conduct to appropriate authorities. On July 4, 2022, Plaintiff filed her Complaint alleging: 1) Childhood Sexual Abuse; 2) Intentional Infliction of Emotional Distress; 3) Negligence; 4) Failure to Report Suspected Child Abuse; 5) Negligent Supervision of a Minor; and 6) Negligence.

Plaintiff’s Subpoena to Non-Party California Commission on Teacher Credentialing

On August 13, 2024, Plaintiff issued a deposition subpoena for the production of business records to the CCTC related to Bosque. On September 19, 2024, the CCTC responded by asserting a series of objections and by producing fifty pages of documents with redactions. With this Motion, Plaintiff seeks an order requiring the CCTC to produce those same fifty pages of documents without certain redactions. Specifically, Plaintiff seeks an order compelling the CCTC to produce the previously produced documents without redaction of the following information:

1. The Temporary Clearance Status redacted on pg. CTC-001;
2. Character and Fitness Questionnaire and Prior Offense Questionnaire redacted on CTC-002;
3. Evidence of Rehabilitation Questionnaire redacted on pg. CTC-003;
4. Credential Requirements redacted on pg. CTC-008;
5. History of educational institutions attended by Defendant Bosque and Personal and Professional Fitness Questionnaire redacted on pg. CTC-009;
6. Educational institutions attended by Defendant Bosque and Personal and Professional Fitness Questionnaire redacted on pg. CTC-016;
7. Requirements for teacher credential redacted on pg. CTC-017;
8. Personal and professional fitness questionnaire redacted on pg. CTC-021;
9. Personal and professional fitness questionnaire redacted on pg. CTC-025;
10. Professional fitness questionnaire redacted on pg. CTC-028;
11. Character and fitness questionnaire redacted on pg. CTC-032;
12. Name of the school district that recommended Defendant Bosque redacted on pg. CTC-033; and
13. Professional Fitness Questionnaire redacted on pg. CTC-034.

This motion is made on the grounds that the documents sought are relevant, are reasonably calculated to lead to the discovery of admissible evidence, that good cause exists to produce the documents, that any right of privacy is outweighed by Plaintiff's need for the documents and the public's interest in teacher malfeasance, and pursuant to Code of Civil Procedure sections 2017.010, 2025.480 and 1987.1.

Legal Standard

“If a deponent fails to answer any question or to produce any document, electronically stored information, or tangible thing under the deponent's control that is specified in the deposition notice or a deposition subpoena, the party seeking discovery may move the court for an order compelling that answer or production.” (Code Civ. Proc., § 2025.480, subd. (a).) “This motion shall be made no later than 60 days after the completion of the record of the deposition ...” (Id., at subd. (b).)

In general, “any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence.” (Code Civ. Proc., § 2017.010.) To meet this standard, a party seeking to compel production of records from a nonparty must articulate specific facts justifying the discovery sought; it may not rely on mere generalities. (*Bd. of Registered Nursing v. Superior Ct. of Orange Cnty.* (2021) 59 Cal.App.5th 1011, 1039. Internal citations omitted.) In assessing the party's proffered justification, courts must keep in mind the more limited scope of discovery available from nonparties. (*Id.*, citing *Catholic Mutual Relief Society v. Superior Court* (2007) 42 Cal.4th 358, 366, fn. 6.)

Discussion

Relevancy

To determine relevance, a review of the claims asserted is necessary. Plaintiff has asserted two causes of action for negligence—one based on negligent hiring, supervision, and retention of Bosque, and one based on negligent supervision of her. To prevail on these claims, she will need to show that the duty of care owed by school personnel includes the duty to use reasonable measures to protect students from foreseeable injury at the hands of third parties acting negligently or intentionally, including injuries to a student resulting from a teacher's sexual assault. (*Doe v. Lawndale Elementary School Dist.* (2021) 72 Cal.App.5th 113.) Plaintiff also sued District for failure to report Bosque of "suspected grooming, sexual assault and sexual abuse of Plaintiff," which requires her to show District's employees had knowledge or reasonably suspected she had been the victim of child abuse or neglect and failed to report same to law enforcement or county welfare (Pen. Code, § 1116, *Doe, supra*, 72 Cal.App.5th at p. 138.)

Plaintiff contends the redacted information includes relevant and critical categories of information, such as character and fitness reviews, prior offenses questionnaire, evidence of rehabilitation, personal and professional fitness questionnaire, list of educational institutions attended and prior work experiences. (Shakh Decl., ¶ 4.) Plaintiff further asserts that information as to character fitness, prior offenses, satisfaction of credentialing requirements, prior locations of employment, and educational history is all relevant information to show that the school district negligently hired, supervised, and retained Defendant Bosque as an employee as well as negligently supervised Plaintiff as a minor student in its care. Furthermore, this information is relevant to identify relevant witnesses who have knowledge that Defendant Bosque has a history of misconduct as a teacher.

Non-Party CCTC opposes the motion and Defendant Bosque joins in that Opposition. Bosque argues Plaintiff's request is grossly overbroad in scope and time, with no known limit to the amount of confidential and privileged information sought to be disclosed, including the personal information of Defendant Bosque and witnesses, if any, which are protected by the Information Practices Act. (See Civ. Code, § 1798.24 et seq.)

The Court finds that Plaintiff has met her burden to show that the sought after material is directly relevant to her claims and reasonably calculated to lead to the discovery of admissible evidence. Although the breadth of the request is unusual, the Court of Appeal has already identified that such breadth is partly a function of the permissive limitations statutes governing child sexual abuse. (*Lopez v. Watchtower Bible & Tract Soc'y of New York, Inc.* (2016) 246 Cal.App.4th 566, 594.) Absent this tolling period or an equivalent circumstance, it is unlikely that a similarly time-expansive document production would be upheld outside of this context. (*Ibid.*)

Confidential Nature of Information Sought

The Subpoena seeks information that is deemed confidential by statute. (Ed. Code, §§ 44230 & 44245.) Education Code section 44230(a) states: (a)(1) The commission shall maintain for public record, and may disclose, only the following information relating to the credentials,

certificates, permits, or other documents that it issues: the document number, title, term of validity, subjects, authorizations, effective dates, renewal requirements, and restrictions. The commission may also disclose the last known business address of any applicant or credential holder. (2) Notwithstanding any other provision of law, except as provided for in Sections 44230.6 and 44248, no information, other than that set forth in paragraph (1), may be disclosed by the commission absent an order from a court of competent jurisdiction. (Emphasis added.) Accordingly, the Education Code sections cited by CCTC allow disclosure of the sought after information with a court order.

Privilege

Even if information is otherwise discoverable, it may be protected by a constitutional or statutory privilege. At issue here are the right to privacy, official information privilege, and deliberative process privilege.

Privacy

Hill v. National Collegiate Athletic Association (1994) 7 Cal.4th 1, 26 established a framework for evaluating potential invasions of privacy. The party asserting a privacy right must establish a legally protected privacy interest, an objectively reasonable expectation of privacy in the given circumstances, and a threatened intrusion that is serious. The party seeking information may raise in response whatever legitimate and important countervailing interests disclosure serves, while the party seeking protection may identify feasible alternatives that serve the same interests or protective measures that would diminish the loss of privacy. (*Ibid.*) A court must then balance these competing considerations. (*Ibid.*)

Here, there is no question that Bosque, and potentially others, have a privacy interest in the sought after documents. This means that the court is required to carefully balance the right of privacy with the need for discovery and that discovery may be compelled only upon a showing of a compelling public interest.

The public has a significant interest in the competence and misconduct of public-school teachers teaching their children, especially allegations of misconduct that have a negative impact on their children. (*See Marken v. Santa Monica-Malibu Unified School District* (2012) 202 Cal.App.4th 1250, 1259.) The public also has a significant interest in knowing how a school district responds to allegations of misconduct or improper behavior towards students by teachers.” (*Ibid.*)

The Court finds that the public’s interest in disclosure outweighs the potential harm to privacy interests.

Official Information

CCTC also raises the Official Information privilege as an objection. “A public entity has a privilege to refuse to disclose official information, and to prevent another from disclosing official information, if the privilege is claimed by a person authorized by the public entity to do so[.]” Evid. Code, § 1040(b). “Official information” “means information acquired in confidence

by a public employee in the course of his or her duty and not open, or officially disclosed, to the public prior to the time the claim of privilege is made.” (Evid. Code, § 1040(a).)

The official information privilege is absolute if “[d]isclosure is forbidden by an act of the Congress of the United States or a statute of this state.” (Evid. Code, § 1040(b)(1).) However, where, as here, disclosure is not statutorily barred, the privilege is merely conditional and applies only if a court determines that the public interest in preserving confidentiality outweighs the necessity for disclosure in the interest of justice. (Evid. Code, § 1040(b)(2).)

The Court finds the opposition has established that the information sought was acquired in confidence. However, the Court cannot say that there exists a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice. For the reasons stated above, there is a significant public interest in the misconduct of public school teachers and an interest in knowing how a school district responds to such misconduct. (*Marken v. Santa Monica-Malibu Unified School District, supra*, 202 Cal.App.4th at p. 1259.) Accordingly, the Court finds that the interests of justice favor disclosure and outweigh the interest in preserving confidentiality.

Deliberative Process

The opposition also raised the Deliberative Process privilege as an objection. Under the Deliberative Process privilege, senior officials of all three branches of government enjoy a qualified, limited privilege not to disclose or to be examined concerning not only the mental processes by which a given decision was reached, but the substance of conversations, discussions, debates, deliberations and like materials reflecting advice, opinions, and recommendations by which government policy is processed and formulated. (*San Joaquin Cnty. Loc. Agency Formation Comm'n v. Superior Ct.* (2008) 162 Cal.App.4th 159, 170.) “The key question in every case is ‘whether the disclosure of materials would expose an agency’s decision-making process in such a way as to discourage candid discussion within the agency and thereby undermine the agency’s ability to perform its functions.’” (Id., at pp. 170-71.) “Not every disclosure which hampers the deliberative process implicates the deliberative process privilege. Only if the public interest in nondisclosure clearly outweighs the public interest in disclosure does the deliberative process privilege spring into existence.” (*Citizens for Open Gov’t v. City of Lodi* (2012) 205 Cal.App.4th 296, 306.)

In this case, the opposition argues that maintaining the confidentiality of CCTC’s investigation and internal processes and procedures allows CCTC to exercise its duty to fully and fairly investigate complaints and evaluate them for potential disciplinary action. Further, if licensees and witnesses knew that all documents related to an investigation could result in public dissemination, then there could be a chilling effect on their willingness to cooperate with investigations. The opposition concludes that necessity of maintaining the confidentiality of the CCTC’s official information outweighs the benefits of disclosure.

On the other hand, California recognizes that the conduct of teachers in performing or not performing their duties is a matter of public interest as it involves the qualifications of those who hold positions of public trust. (*See Morrow v. Los Angeles Unified School District* (2007) 149 Cal.App.4th 1424, 1436-1437.)

Again, the Court finds the public interest in disclosure outweighs the public interest in non-disclosure.

For these reasons, the Motion to Compel production of the 50 pages with specified redactions removed is GRANTED.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 01/29/25 TIME: 1:30 P.M. DEPT: H CASE NO: CV0000291

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: ALINA ANDRES

PLAINTIFF: MARCIA MCGOVERN

vs.

DEFENDANT: KILLINGSWORTH
KENDRICK, ET AL

NATURE OF PROCEEDINGS: MOTION – RELIEVE COUNSEL

RULING

Appearances required.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

The Zoom appearance information for January, 2025 is as follows:

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Meeting ID: 161 548 7764

Passcode: 502070

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 01/29/25 TIME: 1:30 P.M. DEPT: H CASE NO: CV0001500

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: ALINA ANDRES

PLAINTIFF: ROBERT WOODS

vs.

DEFENDANT: HOLLY BRINKMAN

NATURE OF PROCEEDINGS: MOTION – COMPEL; DISCOVERY FACILITATOR PROGRAM

RULING

Plaintiff filed a motion to compel responses to special interrogatories, set one, and for sanctions against Defendant and Cross-Complainant Holly Brinkman (“Defendant”). A proof of service filed with the court indicates that notice of hearing and moving papers were served on counsel for Defendant, and no opposition was filed. A failure to oppose a motion may be deemed a consent to the granting of the motion. (Cal. Rules of Court, rule 8.54, subd. (c).) Failure to oppose a motion may also lead to the presumption that [plaintiff] has no meritorious arguments. (See *Laguna Auto Body v. Farmers Ins. Exchange* (1991) 231 Cal. App. 3d 481, 489, disapproved of by *Garcia v. McCutchen* (1997) 16 Cal.4th 469, on other grounds.)

Accordingly, the court grants Plaintiff’s motion. Defendant is required to provide verified responses to the special interrogatories without objections no later within ten days of entry of this order. Additionally, sanctions are awarded against Defendant and her counsel, in the amount of \$675, payable within thirty days of entry of this order.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 01/29/25 TIME: 1:30 P.M. DEPT: H CASE NO: CV0002872

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: ALINA ANDRES

PLAINTIFF: LINDA BERGER
DEARBORN

vs.

DEFENDANT: FLORENCE E. GIAMONA,
ET AL

NATURE OF PROCEEDINGS: MOTION – OTHER: TO EXPUNGE LIS PENDENS OR IN THE ALTERNATIVE, TO POST BOND

RULING

A motion to expunge lis pendens was filed in this matter on August 12, 2024, and set for hearing for January 27, 2025. However, a notice was filed by Plaintiff on September 20, 2024, indicating that the parties had reached settlement and indicated a request for dismissal would be filed by January 13, 2025.

There is no request for dismissal in the court's file. Appearances required.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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