

From: "Clifford D. Weiler" <CWeiler@aalrr.com>

To: Jon Cadieux <JCadieux@ssvwlaw.com>

Cc:

Bcc:

Date: Fri, 13 Jul 2018 21:01:23 +0000

Subject: Burgess (Coronado USD; Voice of San Diego, PRA request)- deadline of on or before Wednesday [AALRR-Cerritos.005455.00252]

As you may recall, Coronado Unified School District received a request from Voice of San Diego for disclosure of particular documents. Communications were exchanged. Mine to you of January 10, 2018 included, in part, "You will be informed of the response by the requestor's attorney, if any and if disclosures are still requested."

This is to advise you that Attorney Felix Tinkov, on behalf of Voice of San Diego, contacted me on behalf of Coronado Unified School District. In a discussion today, Friday morning, July 13, 2018, he indicated, as to your client Randy Burgess, that the District must release information, and if not, he will be moving forward and filing litigation. I indicated to him I would contact him by next Wednesday. I provide relevant excerpts below of his email following our call, with omissions which are not directly related to your client.

I am not aware of any "Marken" litigation having been filed by or on behalf of your client. Please be reminded that if your client contests disclosure, the option of "Marken" exists, and if implemented, or intended to be implemented, please contact me so the District can factor that into decisions/options regarding disclosure or non-disclosure of documents. My January 10 correspondence to you mentioned "Marken" and requested you inform Rita Beyers if such option was implemented; Rita Beyers is retiring, effective I believe July 31, 2018, so that if "Marken" litigation is filed after that date, please forward information to the District Superintendent and copy me. Thank you.

I am not currently aware of what option my client will implement, but disclosure of the documents previously provided to you/Mr. Burgess remains an option.

Excerpts from Mr. Tinkov's email as he represents Voice of San Diego:

Dear Clifford,

Thank you for speaking with me this morning by phone. To summarize our discussion, I lay out the highlights below:

VOSD is concerned with the District's refusal to release records responsive to Ms. McGlone's November 21, 2017 Public Records Act request as they relate to XXXXXX Burgess. XXXXXX

VOSD further understands that the District placed Mr. Burgess on paid administrative leave for well over 200 days, resulting in Mr. Burgess suing your client for reinstatement. We believe that that lawsuit is now being appealed by Mr. Burgess.

*Marken v Santa Monica-Malibu Unified School District*(2012) 202 Cal. App. 4th 1250, 1275 provides that where allegations result in discipline, even where such discipline is as minor as "a private reproof," responsive public records must be disclosed.

Given Mr. Burgess's own determination that he was punished by the District, and the resulting lawsuit exposing some of the actions taken by your client in regard to its investigation of the claims made against him, it appears to VOSD that the records responsive to Ms. McGlone's request must be released in this instance as well.

And, again, the personnel file exemption would not appear to be applicable in this instance because the release of responsive records would not result in an unwarranted invasion of personal privacy. Mr. Burgess has, of his own free will, openly and publicly sought redress for the District's actions in regard to the claim(s)

made against him, thereby exposing the claims in a manner contrary to any privacy interest he may have otherwise had.

In an effort to resolve these issues, you offered to speak with your client to determine whether they might reconsider their position to avoid VOSD's intention to file suit under the Public Records Act to recover these records, but were unsure whether you could make contact today. I, in turn, offered that you get back to me by next Wednesday, 7/18/18, and you agreed to attempt to meet this timeline.

**Clifford D. Weiler** | Senior Counsel  
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From: Jon Cadieux <JCadieux@ssvwlaw.com>  
Date: Mon, Jul 16, 2018 at 11:33 AM  
To: "Clifford D. Weiler" <CWeiler@aalrr.com>  
Cc: Matthew Herron <mherron@herronlawapc.com>

Dear Mr. Weiler,

I appreciate the notice regarding your client's discussions with VoSD, though it has left us little time to file the necessary legal paperwork to prevent disclosure. As you mention below, this is the first we've heard about any intent to disclose since your January 10, 2018 email, which confirmed nothing would be disclosed at that time. For the reasons stated in my previous letter objecting to release of records attributed to Mr. Burgess, we do not believe the District is legally-entitled, let alone compelled, to release the identified materials. Mr. Burgess will be filing a writ to prevent disclosure, pursuant to Code of Civil Procedure section 1085, this afternoon. You will receive timely notice of the hearing date and a copy of the filing, and are directed to not release any information regarding Mr. Burgess to VoSD or anyone else until such time as his writ may be heard.

Thank you,

Jon Cadieux

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