

PLAINTIFF/PETITIONER: Irvin Muchnick DEFENDANT/RESPONDENT: Regents, University of California	CASE NUMBER: RG17857115
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4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

Petitioner submitted over many months California Public Records Act requests to UC Regents and was stonewalled and compelled to file this Petition because the Regents failed to comply with obligations under the CPRA. The requests relate to a multi-million dollar payment for the death of UC Berkeley football player Ted Agu due to negligence on the part of the Cal football program and to a related previous student athlete assault.

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. **Jury or nonjury trial**

The party or parties request a jury trial a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

- a. The trial has been set for *(date)*:
- b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:

Respondent's delays/obfuscations have hampered progression, and Petitioner must propound discovery.

- c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

- a. days *(specify number)*: 1 day
- b. hours *(short causes) (specify)*:

8. **Trial representation** *(to be answered for each party)*

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

- a. Attorney:
- b. Firm:
- c. Address:
- d. Telephone number:
- e. E-mail address:
- f. Fax number:
- g. Party represented:

Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel has has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party has has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation** (if available).

(1) This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:

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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form are willing to participate in the following ADR processes (<i>check all that apply</i>):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (<i>attach a copy of the parties' ADR stipulation</i>):
(1) Mediation	<input type="checkbox"/>	<input type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete mediation by (<i>date</i>): <input type="checkbox"/> Mediation completed on (<i>date</i>):
(2) Settlement conference	<input type="checkbox"/>	<input type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete settlement conference by (<i>date</i>): <input type="checkbox"/> Settlement conference completed on (<i>date</i>):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete neutral evaluation by (<i>date</i>): <input type="checkbox"/> Neutral evaluation completed on (<i>date</i>):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete judicial arbitration by (<i>date</i>): <input type="checkbox"/> Judicial arbitration completed on (<i>date</i>):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete private arbitration by (<i>date</i>): <input type="checkbox"/> Private arbitration completed on (<i>date</i>):
(6) Other (<i>specify</i>):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete ADR session by (<i>date</i>): <input type="checkbox"/> ADR completed on (<i>date</i>):

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11. Insurance

- a. Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: Yes No
- c. Coverage issues will significantly affect resolution of this case (*explain*):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

Bankruptcy Other (*specify*):

Status:

13. Related cases, consolidation, and coordination

- a. There are companion, underlying, or related cases.
- (1) Name of case:
- (2) Name of court:
- (3) Case number:
- (4) Status:
- Additional cases are described in Attachment 13a.
- b. A motion to consolidate coordinate will be filed by (*name party*):

14. Bifurcation

- The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

15. Other motions

- The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

16. Discovery

- a. The party or parties have completed all discovery.
- b. The following discovery will be completed by the date specified (*describe all anticipated discovery*):
- | <u>Party</u> | <u>Description</u> | <u>Date</u> |
|--------------|--------------------|-------------|
| | | |

- c. The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

In light of recent developments and the current posture of the case, Petitioner no longer intends to seek discovery from Respondent. However, Petitioner reserves the right to reinstate or renew focused discovery demands.

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17. Economic litigation

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. Other issues

- The party or parties request that the following additional matters be considered or determined at the case management conference (specify):
Briefing schedule on the focused issue of the disclosure of the 141 pages, as set forth in greater detail in the attachment page.

19. Meet and confer

- a. The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
Earlier meet and confer per Rule 3.724 for previous Case Management. See attachment page re recent unsuccessful attempts to agree upon a briefing schedule and the substance and scope of the motion.
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): 1

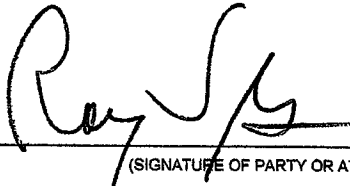
I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: September 17, 2018

Roy S. Gordet

(TYPE OR PRINT NAME)

(TYPE OR PRINT NAME)

▶ 

(SIGNATURE OF PARTY OR ATTORNEY)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.

SHORT TITLE:	CASE NUMBER:
Muchnick v. Board of Regents, University of California	RG17857115

ATTACHMENT (Number): 1*(This Attachment may be used with any Judicial Council form.)*

Petitioner believes that there has been significant progress based on the two “rolling basis” productions of previously withheld documents. In an effort to move expediently towards a common goal of resolution, based on recent representations by Respondent and concomitant disclosures, Petitioner has agreed to forego seeking a separate determination on certain FERPA issues and certain privacy issues that the Court has not yet ruled on. Petitioner is disappointed, however, that there has been no agreement between the parties on a briefing schedule, as contemplated by the Court’s August 8 Order, for the issue of whether the known 141 pages of Berkeley campus police records, described by Respondent’s counsel as a “binder,” will be publicly produced, in whole or in part. Respondent has recently informed Petitioner that Respondent will argue for exemption of these documents under CPRA Section 6254(f). Petitioner contends that holdings of the 1993 Williams case and other cases, such as Haynie v. Superior Court and Sierra Club v. Superior Court, when interpreted in the light of the facts in the record with respect to the 141 pages, which include questions of public agency malfeasance, and with the urgent public interest in the recent national scandals in college sports bolstered by the recent tragic death of a student football player at the University of Maryland, suggest something much less than Respondent’s bright-line interpretation of 6254(f). In this anticipated streamlined Motion, Petitioner will explain why many, or all, of the 141 pages should be immediately disclosed, perhaps with light redactions, perhaps without. At a minimum, in the unlikely event Respondent succeeds in raising doubts sufficient to overcome its heavy burden to justify non-disclosure, then Petitioner will argue that the Court should undertake an in camera review at the Court’s earliest opportunity, and make a ruling.

At the Case Management Conference, Petitioner will respond to Respondent’s reasons for delaying the briefing that to this point have resulted in a brief scheduling impasse and any other issues related to the substance and scope of the briefing. Petitioner has stated and continues to believe that further delay is unacceptable, and that the Court now must set the briefing schedule. Additional information in the record of this case and in the public record as a whole since the August 1 Case Management hearing has made the significant and sui generis issue of the 141 pages even more ready for presentation and decision by the Court.

Regardless of what specific briefing dates are ultimately set by the Court, Petitioner further requests that all other work on this case be suspended pending such briefing and a ruling. The purpose of this request is judicial economy: the case has been narrowed and focused to the most salient dispute, and anything else emerging from its resolution will be affected by the resolution of the 141-pages question. Tasks related to devising or revising categories of records, searching for other categories of records, notating exemption claims by Respondent and any objections thereto by Petitioner, and determining the legitimacy of certain asserted privileges, would at this point merely slow determination of the possible connection of the 141 pages disclosure to less significant issues and could give rise to unnecessary delays. In addition, designation of certain information by Respondent as “Attorneys Eyes Only” complicates presentation and resolution of certain of the issues that are merely tangential to the 141 pages and their disclosure.

In sum, Petitioner seeks the quickest possible briefing schedule on the 141 pages/binder, and a suspension of other activities during the pendency of the anticipated Motion. These steps prevent harm to the public’s interest under CPRA and what the Court has acknowledged could be a finite “shelf life” of public attention to the information in withheld documents that should be disclosed.

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

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