

1 Roy S. Gordet, State Bar No. 103916  
2 Law Office of Roy S. Gordet  
3 235 Westlake Center #452  
4 Daly City CA 94015  
5 Tel. (650) 757-6147  
6 Fax (650) 735-3380  
7 Email roy@copyrightdirection.com

8 Attorney for Petitioner Irvin Muchnick

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF ALAMEDA

11 IRVIN MUCHNICK,

12 Petitioner,

13 vs.

14 UNIVERSITY OF CALIFORNIA, BOARD OF  
15 REGENTS,

16 Respondent.

) Case No. RG17857115

) HAYWARD DIVISION

) DECLARATION OF ROY S. GORDET  
) IN SUPPORT OF PRIVACY MOTION

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21 Hearing Date: August 1, 2018

22 Time: 9:00 a.m.

23 Judge: Hon. Jeffrey S. Brand

24 Dep't: 507

25 Petition Filed: April 18, 2017

26 I, Roy S. Gordet, under penalty of perjury, under the laws of the State of California, state as  
27 follows:

28 1. I am a Member of the Bar of California and admitted to practice before all state and Federal  
courts in California.

1 2. I am counsel of record to Petitioner Irvin Muchnick in the above-captioned lawsuit. I make these  
2 statements based on my personal knowledge, unless otherwise noted.

3 3. Submitted as Exhibit 1 is the "Issues Index Accompanying Privacy Motion".

4 3. Submitted as Exhibit 2 is a Department of Education policy letter, which, according to  
5 commentators in the field, is commonly used in support of the proposition that there are no  
6 violations of FERPA based on disclosures of a student's educational records when the student was  
7 more than 18 years of age and is deceased.

8 4. Submitted as Exhibit 3 is the email thread of Respondent's counsel with the Agu family lawyers  
9 seeking "authorization" to disclose certain documents to Petitioner – it is the earliest message, at  
10 the beginning of the thread at the bottom..

11 5. Following the May 17, 2018 hearing, I provided an additional specified request that Respondent  
12 disclose the Agu Settlement Agreement. Respondent complied with that request on June 1, 2018

13 6. During the meet and confer process culminating in a Joint Report as mandated by the Court, I  
14 pointed out as to a proposed Category (7) that Petitioner already had acquired and published a  
15 document on his blog, i.e. the transcript of a deposition in the Agu family civil lawsuit against  
16 Respondent herein given by an Alameda County Sheriff's Office lieutenant, that contradicts the  
17 tentative premise that there exist no responsive documents falling within such a category.

18 According to testimony in that deposition, the lieutenant confirmed the existence of a campus  
19 police report. In that transcript, the interrogating attorney representing the Agu family refers to the  
20 report as being 141 pages, although the lieutenant states that the portion she received was fewer  
21 than 141 pages. Subsequently I provided to counsel for Respondent the table of contents of that  
22 141-page campus police report obtained from an anonymous source. To date, Respondent has not  
23 confirmed or denied the existence of such a campus police report, has not confirmed or denied that  
24 it is in possession of this campus police report, and needless to say has not disclosed to Petitioner  
25 that campus police report.

26 7. On June 1, 2018, Respondent delivered to Petitioner's counsel a copy of the Agu Settlement  
27 Agreement following a specific request for same as part of the formalizing of new "categories"  
28 pursuant to the Court's recent Tentative Order.

8. Submitted as Exhibit 4 are two pages of 83 pages of emails with attachments recently released by  
Respondent to Petitioner because, according to Respondent, it had recently received authorization  
from the Agu family to disclose these 83 pages. These two pages are examples of approximately

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ten pages in this production that nowhere mention Ted Agu or any other student so the question is raised why were these two pages were withheld from disclosure under FERPA.

Executed on June 11, 2018 in Daly City,  
California



Roy S. Gordet