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**Superior Court of California, County of Alameda
Hayward Hall of Justice**

<p>Muchnick Plaintiff/Petitioner(s)</p> <p style="text-align: center;">vs.</p> <p>University Of California, Board Of Regents</p> <hr/> <p style="text-align: right;">Defendant/Respondent(s) (Abbreviated Title)</p>	<p>No. <u>RG17857115</u></p> <p>Order</p> <p>Date: 08/01/2018 Time: 09:00 AM Dept: 507 Judge: Jeffrey Brand</p>
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The Petition for Writ of Mandate filed for Irvin Muchnick was set for hearing on 08/01/2018 at 09:00 AM in Department 507 before the Honorable Jeffrey Brand. The Tentative Ruling was published and was contested.

The matter was argued and submitted, and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

Petition for Writ of Mandate is Denied without prejudice.

The Petition for Writ of Mandate filed for Irvin Muchnick was set for hearing on 08/01/2018 at 09:00 AM in Department 507 before the Honorable Jeffrey Brand. The Tentative Ruling was published and was contested.

The matter was argued and submitted, and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

Petition for Writ of Mandate is Denied without prejudice.

The Motion filed for Irvin Muchnick was set for hearing on 08/01/2018 at 09:00 AM in Department 507 before the Honorable Jeffrey Brand. The Tentative Ruling was published and was contested.

The matter was argued and submitted, and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

The tentative ruling is affirmed as follows: MUCHNICK V. UNIVERSITY OF CALIFORNIA,
BOARD OF REGENTS RG17857115
ORDER FOLLOWING HEARING ON 8/1/18

The parties appeared on August 1, 2018 on Respondent's motion regarding the suitability of a Vaughn Index and Petitioner's motion to require the Regents to disclose (1) documents related to Ted Agu and

(2) a campus police report related to Mr. Agu's death. At the hearing, Respondent produced its response to the Court's previous order to provide Petitioner on or before 8/1/18, a response on a category by category basis for each of the 22 categories previously identified by the parties as to (1) whether it has any responsive public records; (2) whether it is asserting that all of the responsive public records are CPRA exempt and to identify the asserted CPRA exemptions; (3) whether it is asserting that some of the responsive public records are CPRA exempt and to identify the asserted CPRA exemptions; and (4) whether it has produced all non-exempt responsive documents.

Having heard the arguments of the parties, reviewed the briefs of the parties in response to Petitioner's motion, as well as Respondent's response with regard to the 22 categories, and the Proposed Stipulations and Order Regarding Disclosure of FERPA Protected Information, the court orders the following:

1. The motion of petitioner Muchnick to require the Regents to disclose (1) documents related to Ted Agu and (2) a 141 page police report relating to the death of Ted Agu is DENIED WITHOUT PREJUDICE as premature.
2. Briefing: The parties are to agree to a briefing schedule with regard to the following issues: (1) whether the police report relating to the death of Ted Agu should be disclosed; (2) whether FERPA applies to a deceased student; (3) whether the Agu family has standing to raise privacy issues; and, (4) any other issues that the parties deem ripe for decision.
3. Responding and Objecting to the 22 Categories: On the date on which Petitioner Muchnick's opening brief is due, Respondent is to provide Petitioner a complete response to the 22 categories previously identified herein. On the date on which Petitioner Muchnick's reply brief is due, Petitioner is to provide a response detailing his objections to Respondent's response to any of the 22 categories, detailing the basis for his objection. The responses and objections should address specific reasons for production or non-production, and include a factually specific discussion of CPRA, FERPA, the California Constitution, and/or any other basis to support production or non-production of the documents. The parties are also to address whether a privilege log, Vaughn Index, production under seal, and/or in camera review are appropriate to determine whether particular documents should be produced.
4. Updates: On or before August 31, 2018, Respondent is to provide the court with a declaration to update and inform the court regarding the following: (1) the status of the Agu family's waiver of its privacy rights, and the impact of any such waiver on the production of Agu-related documents; (2) whether any documents relating to the death of Ted Agu remain to be disclosed, including documents relating to the settlement agreement entered into between Respondent and the Agu family; and, (3) whether J.D. Hinnant, Fabiano Hale, or Joe Mahalic indicated to the Regents whether each supports, opposes, or is indifferent to whether the Regents releases information regarding the altercation between football players J.D. Hinnant and Fabiano Hale, which occurred on or around November 1, 2013.
5. Protective Order: Any information exchanged during the pendency of these motions will be subject to the protective order stipulated to by the parties and signed by the court without prejudice to either party to request that the protective order be vacated at an appropriate time.
6. Notice to Third Parties: The order of 6/11/18 ordered the Regents to serve a copy of the order and copies of all future court filings by any party on J.D. Hinnant, Fabiano Hale, and Joe Mahalic or their legal representatives at their last known addresses is to remain in effect throughout the pendency of these proceedings. These third parties appear to be the real parties in interest regarding the privacy interests that the Regents is asserting. On the facts of this case it is therefore appropriate that they receive notice so that they have the opportunity to participate, to assert their privacy interest, or to waive their privacy interests.

The parties shall seek a reservation from the court for a further Case Management Conference and hearing on pending motions on a date consistent with the agreed briefing schedule.

Dated: 08/08/2018


facsimile

Judge Jeffrey Brand

Superior Court of California, County of Alameda
Hayward Hall of Justice

Case Number: RG17857115
Order After Hearing Re: of 08/08/2018

DECLARATION OF SERVICE BY MAIL

I certify that I am not a party to this cause and that a true and correct copy of the foregoing document was mailed first class, postage prepaid, in a sealed envelope, addressed as shown on the foregoing document or on the attached, and that the mailing of the foregoing and execution of this certificate occurred at 24405 Amador Street, Hayward, California.

Executed on 08/09/2018.

Chad Finke Executive Officer / Clerk of the Superior Court

By 
digital Deputy Clerk

