

2-18-17;04:42PM;

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2/ 39

1 **G. DANA SCRUGGS (#96152**
 2 **SAMUEL FORBES-ROBERTS (#286586)**
 3 **CARTWRIGHT, SCRUGGS, FULTON &**
 4 **WALTHER**
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 7 TELEPHONE: (831) 457-1700
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9 **B. ROBERT ALLARD (#175592)**
 10 **LAUREN A. CERRI (#28524)**
 11 **CORSIGLIA MCMAHON & ALLARD LLP**
 12 96 NORTH THIRD STREET, SUITE 620
 13 SAN JOSE, CALIFORNIA 95112
 14 TELEPHONE: (408) 289-1417
 15 FACSIMILE: (408) 289-8127

Attorneys for Plaintiffs

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

JANE DOE, a minor, by and through her
Guardian ad Litem, Mrs. DOE,

Plaintiff,

vs.

NEW HAVEN UNIFIED SCHOOL
DISTRICT, MARCUS LAM, MICHAEL
WILLIAM HOWEY, and ROES I
through 50, inclusive,

Defendants.

Lead Case No. RG16830012
(Consolidated with Case No. RG17868000 for
discovery)

[ASSIGNED FOR ALL PURPOSES TO HON.
FRANK ROESCH, DEPT 24]

Reservation No. R-1918810

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION TO RELEASE CONFIDENTIAL
RECORDS PURSUANT TO PENAL CODE §§
11167(d)(1), 11167.5(b)(1)**

Date: January 16, 2018
Time: 3:45 pm
Judge: The Honorable Frank Roesch

TO ALL PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF RECORD IN EACH
ACTION:

PLEASE TAKE NOTICE THAT on January 16, 2018 at 3:45 pm or as soon thereafter
as the matter may be heard in Department 24 of the above-entitled Court, located at 1225 Fallon
Street, Oakland, CA 95612, plaintiff Jane Doe in Case No. RG17868000 (hereinafter "Jane Doe
2") will move the court for an order releasing confidential records under the Child Abuse and

1 Neglect Reporting Act from the City Attorney for the City of Union City ("City").

2 This motion is made pursuant to Penal Code §§ 11167(d)(1) and 1167(b)(1) on the
3 grounds that plaintiff needs the requested documents to seek justice against her abuser, Michael
4 Howey, and the entity which facilitated and/or failed to prevent the abuse, New Haven Unified
5 School District.

6 In her subpoena for the production of business records, Plaintiff Jane Doe 2 requested
7 documents relating to the claims, allegations and/or complaints against Michael Howey for
8 childhood sexual abuse. Although the City possesses records responsive to this request, the
9 City will not disclose the records without a prior court order on the basis that, *inter alia*, they
10 are confidential "[r]eports of suspected child abuse or neglect" under Penal Code § 11167.5(b).

11 Plaintiff requests this Court issue an order releasing the aforementioned records in
12 furtherance of her pursuit of justice in their civil case. Plaintiff Jane Doe 2 and the plaintiffs in
13 the related cases are the victims of Michael Howey's sexual abuse and wish to use the requested
14 records to rectify the harms done to them. Plaintiff agrees to use the requested records pursuant
15 to the proposed protective order.

16 This motion will be based upon this Notice of Motion and Motion, the accompanying
17 Memorandum of Points and Authorities in support thereof, the Declaration of Lauren A. Cerri
18 in support thereof, the pleadings, records and documents on file herein, and oral and
19 documentary evidence to be presented upon hearing of said motion.

20
21 Dated: December 18, 2017

CORSIGLIA, MCMAHON & ALLARD LLP

22
23 By: 

24 B. ROBERT ALLARD
25 LAUREN A. CERRI
26 Attorneys for Plaintiffs
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28

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16 Attorneys for Plaintiffs

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

JANE DOE, a minor, by and through her
Guardian ad Litem, Mrs. DOE,

Plaintiff,

vs.

NEW HAVEN UNIFIED SCHOOL
DISTRICT, MARCUS LAM, MICHAEL
WILLIAM HOWEY, and ROES 1
through 50, inclusive,

Defendants.

Lead Case No. RG16830012
(Consolidated with Case No. RG17868000)

[ASSIGNED FOR ALL PURPOSES TO HON.
FRANK ROESCH, DEPT 24]

Reservation No. R-1918810

**MEMORANDUM OF POINTS &
AUTHORITIES IN SUPPORT OF
PLAINTIFF'S MOTION TO RELEASE
CONFIDENTIAL RECORDS PURSUANT TO
PENAL CODE §§ 11167(d)(1), 11167.5(b)(1)**

Date: January 16, 2018
Time: 3:45 pm
Judge: The Honorable Frank Roesch

INTRODUCTION

Plaintiff Jane Doe in Case No RG 1786800 (hereinafter "Jane Doe 2") seeks to obtain records from the Union City Police Department ("City") in relation to the investigation of teacher Michael Howey for childhood sexual abuse. The Court should release these records

1 pursuant to Penal Code §§ 11167(d)(1) and 11167.5(b)(1) because: (1) the records are within
2 the scope of discovery, (2) the confidentiality of the records will be preserved by the proposed
3 protective order, and (3) release of the records is in line with the intentions of the Child Abuse
4 and Neglect Reporting Act.

5 STATEMENT OF FACTS

6 Plaintiff Jane Doe 2 and the related plaintiffs were classmates in Howey's 3rd grade class
7 at Alvarado Elementary School during the 2012-2013 school year. Plaintiffs were sexually
8 molested by Howey during recess and witnessed the molestations of their classmates when
9 Howey was repeatedly alone in his classroom with a group of his female students during recess
10 including both plaintiffs.

11 Defendant New Haven Unified School District knew or should have known, prior to the
12 molestations of plaintiffs, that Howey was a potential threat to the welfare of the children
13 entrusted to its care. Howey had been employed at New Haven Elementary School, also within
14 the District's jurisdiction, from 2000 to 2007, during which time he engaged in inappropriate
15 activity with a minor student such as a long [approximately two minute], frontal "man and wife"
16 style hug and comments about her breasts. While at New Haven Elementary School, a parent
17 complained in 2009 about Howey showing favoritism to little girls by giving them candy under
18 his desk. Another complaint was made in 2010 that Loyd was offering candy in exchange for
19 hugs from little girls. One complaint resulted in a child being transferred to a different class.
20 Three teachers were aware that Howey's classroom windows were covered. Howey instructed
21 yard duty personnel that they were not to bring the children into his classroom, but that he
22 would retrieve them. The law prohibits children being in the classroom during lunch or recess
23 periods [5 CCR §352], yet Howey perpetrated his molestations on plaintiff in the classroom
24 during such break periods.

25 The police investigated complaints of Mr. Howey's lewd and lascivious acts and the
26 City filed criminal charges against him thereafter.

27 Plaintiffs filed civil complaints against Howey, New Haven Unified School District and
28 Marcus Lam alleging claims for: (1) sexual abuse of a minor; (2) breach of mandatory duty

1 [government code §815.6]; (3) negligence of district employees [government code §815.2]; and
2 (4) intentional infliction of emotional distress.

3 On or about October 3, 2017, plaintiff Jane Doe 2 served upon the Union City Police
4 Department (“UCPD”) a Petition to Obtain Report of Law Enforcement Agency seeking only
5 recorded statements of Jane Doe 2 and her parents. (Cerri Declaration at ¶ 3 and Exhibit A to
6 Cerri Declaration.) On or about October 25, 2017, the Office of the City Attorney on behalf of
7 the UCPD objected to the petition because the records, *inter alia*, included reports of
8 suspected child abuse and neglect. (Cerri Declaration at ¶ 4 and Exhibit B to Cerri
9 Declaration.)

10 On or about November 2, 2017, Plaintiff issued to the UCPD a deposition subpoena for
11 the production of business records seeking any and all documents which concern or relate in
12 any way to the UCPD’s investigation into claims, allegations and/or complaints against
13 Michael Howey for childhood sexual abuse, inappropriate touching of children and/or sexual
14 abuse of minors. (Cerri Declaration at ¶ 5 and Exhibit C to Cerri Declaration.) The City
15 Attorney similarly objected to the subpoena. (Cerri Declaration at ¶ 6 and Exhibit D to Cerri
16 Declaration.)

17 To protect the confidentiality of the child abuse reporting records at issue, plaintiff
18 agrees to utilize the records pursuant to a protective order. Plaintiff and the City’s Office have
19 stipulated to and agree to be bound by the terms of the proposed protective order. (Cerri
20 Declaration at ¶ 7 and Exhibit E to Cerri Declaration.)

21
22 **LEGAL ARGUMENT**

23 **I. The Records Pertaining to the Investigation of Michael Howey Should be Released**
24 **Because they are Directly Relevant to Plaintiffs’ Claims and are Within the Scope**
25 **of Discovery.**

26 Under the Child Abuse and Neglect Reporting Act, “child abuse or neglect investigative
27 reports that result in a summary report being filed with the Department of Justice . . . shall be
28 confidential and may disclosed only as provided in subdivision (b).” (Cal. Penal Code §
11167.5(a).) Subdivision (b) states that reports of suspected child abuse may be disclosed to

1 “[p]ersons or agencies to whom disclosure of the identity of the reporting party is permitted
2 under Section 11167.” (Penal Code Section § 11167.5(b)(1).) Finally, under Section 11167,
3 confidential child abuse reporting records may be disclosed to any person by court order.
4 (Penal Code § 11167(d)(1).)

5 Generally, a plaintiff can discover any non-privileged information relevant to his or her
6 claims. (Code of Civil Procedure § 2017.010.) Here, the City’s records pertaining to the
7 investigation of Michael Howey for childhood sexual abuse are directly relevant to Plaintiff
8 Jane Doe 2 and the other plaintiffs’ claims against defendants. Plaintiffs believe the City’s
9 records contain valuable information in regards to abuse done to plaintiffs and the New Haven
10 Unified School District’s neglect in supervising Mr. Howey’s actions. Therefore, the records
11 requested are within the broad scope of the Civil Discovery Act.
12

13 **II. The Confidentiality of the Requested Records Will Be Protected Under Plaintiff’s
14 Proposed Protective Order.**

15 To protect the confidentiality of the records at issue, plaintiff agrees to use the requested
16 records pursuant to the proposed protective order. (See Exhibit E to Cerri Declaration.) The
17 proposed protective order ensures that the confidential records and information from those
18 records will not be disseminated or disclosed outside this litigation. Plaintiff and the UCPD
19 have stipulated to and agree to be bound by the terms of the proposed protective order. By
20 issuing the proposed protective order this Court will be able to release the requested records
21 while also preserving the confidentiality of these child abuse and neglect reports.

22 **III. The Release of the Requested Records Here Would Be Consistent With the
23 Purpose of the Child Abuse and Neglect Reporting Act, Which Was Intended to
24 Encourage the Protection of Children.**

25 The intent of the Child Abuse and Neglect Reporting Act “is to protect children from
26 abuse and neglect.” (Penal Code § 11164(b).) As such, the purpose of including a
27 confidentiality provision protecting child-abuse reporters was to foster the cooperation of
28 persons who might otherwise be reluctant to report child abuse. (*All Angels Preschool/Daycare
v. County of Merced* (5th Dist. 2011) 197 Cal. App. 4th 394, 406.) Here, plaintiff Jane Doe 2
and the other plaintiffs are the victims of child abuse. Plaintiffs seek to use the child abuse

1 records/reports concerning the investigation of Michael Howey to seek justice for the wrongs
2 done to them. Plaintiffs bring suit against defendants not only to remedy the wrongs done to
3 them, but to encourage all child care institutions to properly supervise their employees, to
4 follow the law, and to prevent childhood abuse. In line with the goals of plaintiffs' civil suits
5 and the Child Abuse and Neglect Reporting Act, this Court should release the City's records
6 and facilitate plaintiffs' pursuit of justice.

7 **CONCLUSION**

8 Accordingly, pursuant to Penal Code §§ 11167(d)(1) and 11167.5(b)(1), this Court
9 should order the release of the records pertaining to the investigation of Michael Howey's
10 sexual abuse of children.

11
12
13 Dated: December 18, 2017

CORSIGLIA, MCMAHON & ALLARD LLP

14
15 By: 

16 B. ROBERT ALLARD
17 LAUREN A. CERRI
18 Attorneys for Plaintiff
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16 Attorneys for Plaintiffs

17 SUPERIOR COURT OF CALIFORNIA, ALAMEDA COUNTY

18 JANE DOE, a minor, by and through her
19 Guardian ad Litem, Mrs. DOE,

20 Plaintiff,

21 vs.

22 NEW HAVEN UNIFIED SCHOOL
23 DISTRICT, MARCUS LAM, MICHAEL
24 WILLIAM HOWEY, and ROES 1 through
25 50, inclusive,

26 Defendants.

Lead Case No. RG16830012
(Consolidated with Case No. RG17868000)

[ASSIGNED FOR ALL PURPOSES TO
HON. FRANK ROESCH, DEPT 24]

Reservation No. R-1918810

**DECLARATION OF LAUREN A. CERRI
IN SUPPORT OF PLAINTIFF'S MOTION
TO RELEASE CONFIDENTIAL
RECORDS PURSUANT TO PENAL
CODE §§ 11167(d)(1) and 11167.5(b)(1)**

Date: January 16, 2018
Time: 3:45 pm
Judge: The Honorable Frank Roesch

27 I, LAUREN A. CERRI declare:

28 1. I am an attorney at law, duly licensed to practice before all courts of the State of
California, and am an associate in the law firm of Corsiglia, McMahon & Allard LLP,
attorneys of record for plaintiff in the above-captioned matter.

1 2. My client, plaintiff Jane Doe, has brought this action against the New Haven
2 Unified School District, Principal Marcus Lam and teacher Michael Howey as a result of
3 sexual abuse perpetrated upon her by Howey on school grounds during recess at which time
4 Howie molested plaintiff and several other third grade students in front of one another.

5 3. On or about October 3, 2017, I served upon the Union City Police Department
6 (“UCPD”) a Petition to Obtain Report of Law Enforcement Agency seeking only recorded
7 statements of my client and her parents. Attached hereto and incorporated herein by this
8 reference as **Exhibit A** is a true and correct copy of that petition

9 4. On or about October 25, 2017, I received a letter from the Office of the City
10 Attorney, City of Union City, objecting to the petition served on October 4, 2017. In that
11 letter, Attorney Alex Mog informed me that his office would not be able disclose the requested
12 records because they, *inter alia*, included reports of suspected child abuse and neglect.
13 Attached hereto and incorporated herein by this reference as **Exhibit B** is a true and correct
14 copy of that letter.

15 5. On or about November 2, 2017, I served upon the UCPD a Subpoena for the
16 Production of Business Records seeking any and all documents which concern or relate in any
17 way to the UCPD’s investigation into claims, allegations and/or complaints against Michael
18 Howey for childhood sexual abuse, inappropriate touching of children and/or sexual abuse of
19 minors. Attached hereto and incorporated herein by this reference as **Exhibit C** is a true and
20 correct copy of that subpoena.

21 6. On or about November 27, 2017, I received a letter from the Office of the City
22 Attorney, City of Union City, objecting to the subpoena served on November 2, 2017 on the
23 basis that, *inter alia*, the records included reports of suspected child abuse and neglect.
24 Attached hereto and incorporated herein by this reference as **Exhibit D** is a true and correct
25 copy of that letter.

26 7. To protect the confidentiality of the child abuse reporting records at issue,
27 Plaintiffs agree to utilize the records pursuant to a protective order. Attached hereto as **Exhibit**
28 **E** is a true and correct copy of Plaintiffs’ proposed protective order. Plaintiff and the City’s

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Office have stipulated to and agree to be bound by the terms of the proposed protective order.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 18th day of December, 2017 in San Jose, California.



LAUREN A. CERRI

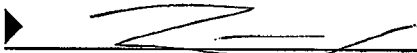
EXHIBIT A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): LAUREN A. CERRI (282524) CORISGLIA, MCMAHON & ALLARD 96 N. THIRD ST., SUITE 620 SAN JOSE, CA 95112 TELEPHONE NO.: (408) 289-1417 FAX NO. (Optional): (408) 289-1417 E-MAIL ADDRESS (Optional): lcerri@cmalaw.net ATTORNEY FOR (Name): ██████████	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1221 Oak Street MAILING ADDRESS: Oakland, California 94612 CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME: ██████████ CHILD'S DATE OF BIRTH: 06/25/2004	CASE NUMBER: RG17868000
PETITION TO OBTAIN REPORT OF LAW ENFORCEMENT AGENCY	RELATED CASES (if any):
1. Petitioner's name and address (if representing another person, organization, or agency, provide names and addresses): ██████████ (available through counsel at the address above)	
2. Petitioner's relationship to child (if any): Mother and Guardian ad Litem	
3. Police department or law enforcement agency possessing records: Union City Police Department Report number: 130412014	
4. The reasons for this request are: (Describe in detail. Attach additional pages if necessary.) See Attachment 4. <input checked="" type="checkbox"/> Continued in Attachment 4.	
5. <input checked="" type="checkbox"/> The Notice to Child and Parent/Guardian Re: Release of Juvenile Police Records and Objections (form JV-580) was served on the <input type="checkbox"/> child or <input checked="" type="checkbox"/> parent on (date): October 2, 2017	

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date: October 3, 2017

LAUREN A. CERRI
 (TYPE OR PRINT NAME)


 (SIGNATURE OF PETITIONER)

Number of pages attached: _____

PETITION GRANTED PETITION DENIED
 ADDITIONAL ORDERS:

Date: _____
 JUDICIAL OFFICER

Attachment 4

Petitioner [REDACTED] is [REDACTED]'s mother and Guardian ad Litem in a civil action brought as a result of sexual abuse perpetrated by New Haven Unified School District employee, Michael Howey, who was a third grade teacher at Alvarado Elementary School

Plaintiff, through her guardian ad litem, has brought a civil action against the New Haven Unified School District (NHUSD) for negligently supervising Howie and plaintiff. Plaintiff claims that NHUSD knew or should have known that Howey was not suitable to work with minor children, had been spending an inordinate amount of time with minor females and/or had inappropriately locked his classroom door during recess, showered female students with gifts, keeping only female students inside the classroom recess]

It is critical for plaintiff's guardian ad litem and her attorney to receive and review all records in the possession of NHUSD regarding this child, including the following in order to fully investigate liability and damages in the civil case:

1. Any and all statements including but not limited to the audio and video recordings of statements given by our client [REDACTED] (Jane Doe 10 in police report) including to police officers and/or Calico interviewers in relation to the police investigation into allegations of abuse being made against Michael Howie, Police Report No. 130412014
2. Any and all statements including but not limited to the audio and video recordings of statements given by our client's parents, [REDACTED] and/or [REDACTED] [REDACTED] (Other 16 in police report), in relation to the police investigation into allegations of abuse being made against Michael Howie, Police Report No. 130412014

EXHIBIT B



555 12th Street, Suite 1500
Oakland, California 94607
tel (510) 808-2000
fax (510) 444-1108
www.meyersnave.com

Alex J. Mog
Attorney at Law
amog@meyersnave.com

October 25, 2017

Via Email

Lauren A. Cerri
Corisglia, McMahon & Allard
93 N. Third Street, Suite 620
San Jose, Ca 95112

**Re: Objection to Petition to Obtain Report of Law Enforcement Agency
*Jane Doe 2 v. New Haven Unified School District (RG17868000)***

Dear Ms. Cerri:

This office serves as the City Attorney for the City of Union City ("City"). This letter is in response to the Petition to Obtain Report of Law Enforcement Agency issued on behalf of your client in the above-referenced case on October 3, 2017. The petition demands production of:

Union City Police Department Report Number 130412014

This letter constitutes the City's formal written objection to the Petition. As described in further detail below, the City is objecting to the release of the documents requested by the petition for the reasons set forth herein.

First, the Child Abuse and Neglect Reporting Act, Penal Code §§ 11164 *et seq.* makes confidential police reports regarding suspected child abuse or neglect and information contained therein.

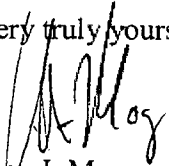
Second, a Petition to Obtain Report of law Enforcement Agency is not the proper method to obtain the requested Union City Police Department Report. The petition references Welfare and Institutions Code sections 827.9 and 828. These sections concern the release of "juvenile case files" and "juvenile police records". The record you seek does not meet the statutory definition of either of those terms.

Thus, the City will not comply with the petition at this time absent a valid court order

Lauren A. Cerri.
Re: Objection to Petition
October 25, 2017
Page 2

If you have any questions, or are able to refer me to controlling legal authority that supports a different result, please feel free to contact me.

Very truly yours,



Alex J. Mog

c: Kristopher J. Kokotaylo, City Attorney
Gloria Cruz, Police Records Supervisor (via e-mail)

2877977.1

EXHIBIT C



Quality • Uniformity • Excellence • Service • Teamwork

QUEST DISCOVERY SERVICES

<http://www.questds.com/>

Order Confirmation

11/02/17

**ATTN: LAUREN CERRI, ESQ.
CORSIGLIA, MCMAHON & ALLARD
ATTORNEYS AT LAW
96 NORTH 3RD STREET
SUITE #620
SAN JOSE, CA 95112**

In Reply Refer to:	San Jose
Our File Number:	SJS715398
Thru:	SJS715398
Client File Number:	
Claim Number:	
Insured:	
Client Number:	MCM060
Deposition Date:	11/28/17

Case Name: **JANE DOE**
vs. **NEW HAVEN UNIFIED SCHOOL DISTRICT**
Case Number: **RG17868000**

RE: **MICHAEL WILLIAM HOWEY DOB:09/20/65**

Dear **LAUREN CERRI, ESQ.:**

Thank you for your order in the above entitled matter. Please review the subpoena paperwork and retain for your files.

SEE ATTACHMENT	UNION CITY POLICE DEPARTMENT	SJS715398
	<small>34009 ALVARADO NILES ROAD UNION CITY, CA 94587-4452</small>	

If you have any questions regarding your order, please contact our Client Services Department at (800) 800-6800 .

We appreciate this opportunity to be of service to you.

Sincerely,

Quest Discovery Services
Jaimee Vallino

Corporate Office:
981 Ridder Park Drive
San Jose CA 95131
(408) 441-7000
FAX (408) 441-7070

Branch Offices:
4600 Roseville Road Ste 200
North Highlands CA 95660
(916) 483-7030
FAX (916) 483-7037

3438 Mendocino Ave Ste B
Santa Rosa CA 95403
(707) 528-2300
FAX (707) 528-6047

2507 W Shaw Ave Ste 101
Fresno CA 93711
(559) 224-0909
FAX (559) 224-1122

1515 W 190th St Ste 410
Gardena CA 90248
(310) 769-5557
FAX (310) 769-1466

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): LAUREN CERRI, ESQ. SB# 282524 CORSIGLIA, MCMAHON & ALLARD ATTORNEYS AT LAW 96 NORTH 3RD STREET SUITE #620 SAN JOSE, CA 95112 TELEPHONE NO.: 408/289-1417 FAX NO.: 408/289-8127 E-MAIL ADDRESS: lcerr@cmalaw.net ATTORNEY FOR (Name): PLAINTIFF - JANE DOE	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1225 FALLON STREET MAILING ADDRESS: CITY AND ZIP CODE: OAKLAND, CA 94612 BRANCH NAME: RENE C. DAVIDSON COURTHOUSE	
PLAINTIFF/ PETITIONER: JANE DOE DEFENDANT/ RESPONDENT: NEW HAVEN UNIFIED SCHOOL DISTRICT	
DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS	CASE NUMBER: RG17868000

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):

Custodian of Records For: **UNION CITY POLICE DEPARTMENT**
 34009 ALVARADO NILES ROAD UNION CITY, CA 94587-4452 510/471-1365

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To (name of deposition officer): Quest Discovery Services On (date): 11/28/17 Location (address): 981 Ridder Park Drive San Jose, CA 95131	PH:(408) 441-7000 FX:(408) 441-7070 At (time): 9:30 A.M.
Do not release the requested records to the deposition officer prior to the date and time stated above.	

- a. by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
 - b. by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).
 - c. by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.
2. *The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.*
3. The records to be produced are described as follows (if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified): **RE: MICHAEL WILLIAM HOWEY DOB:09/20/65**

Continued on Attachment 3.

4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: **11/02/17**

LAUREN CERRI, ESQ.

(TYPE OR PRINT NAME)



(SIGNATURE OF PERSON ISSUING SUBPOENA)

Attorney For PLAINTIFF - JANE DOE

(TITLE)

(Proof of service on reverse)

Attachment 3

File #: **SJS715398**

UNION CITY POLICE DEPARTMENT

Pertaining To: **MICHAEL WILLIAM HOWEY**

Date of Birth: **09/20/65**

"SEE ATTACHMENT 3"

Jane Doe vs. New Haven Unified School District
Alameda Superior Court Case No. RG17868000

ATTACHMENT 3 TO DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS
RECORDS TO:

Union City Police Department
34009 Alvarado-Niles Road
Union City, CA 94587
Phone: (510) 471-1365

DEFINITIONS

The following definitions shall govern this Subpoena:

“DOCUMENTS” or “DOCUMENTATION” shall mean and refer to all items delineated and/or described in California Evidence Code §250.

“CONCERN” or “RELATE” as used herein, means evidencing, supporting, reflecting, discussing, mentioning, constituting, referring to, relating to, or bearing upon in any manner whatsoever.

“YOU” and/or “YOUR” shall mean and refer to the Union City Police Department, or any other person or entity acting on its behalf.

DOCUMENTS TO BE PRODUCED

1. Any and all DOCUMENTS which CONCERN or relate in any way to YOUR investigation into claims, allegations and/or complaints against Michael William Howey (DOB 9/20/1965) for childhood sexual abuse, inappropriate touching of children and/or sexual abuse of minors.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): LAUREN CERRI, ESQ. SB# 282524 CORSIGLIA, MCMAHON & ALLARD ATTORNEYS AT LAW 96 NORTH 3RD STREET SUITE #620 SAN JOSE, CA 95112 TELEPHONE NO.: 408/289-1417 FAX NO. (Optional): 408/289-8127 E-MAIL ADDRESS (Optional): lcerri@cmalaw.net ATTORNEY FOR (Name): PLAINTIFF - JANE DOE	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1225 FALLON STREET MAILING ADDRESS: CITY AND ZIP CODE: OAKLAND, CA 94612 BRANCH NAME: RENE C. DAVIDSON COURTHOUSE	
PLAINTIFF/ PETITIONER: JANE DOE DEFENDANT/ RESPONDENT: NEW HAVEN UNIFIED SCHOOL DISTRICT	CASE NUMBER: RG17868000
NOTICE TO CONSUMER OR EMPLOYEE AND OBJECTION (Code Civ. Proc., §§ 1985.3, 1985.6)	

NOTICE TO CONSUMER OR EMPLOYEE

TO (name): MICHAEL WILLIAM HOWEY (CDCR #AY2279) c/o MICHAEL WILLIAM HOWEY

1. PLEASE TAKE NOTICE THAT REQUESTING PARTY (name): **JANE DOE** SEEKS YOUR RECORDS FOR EXAMINATION by the parties to this action on (specify date): **11/28/17**

The records are described in the subpoena directed to witness (specify name and address of person or entity from whom records are sought): **Custodian of Records: UNION CITY POLICE DEPARTMENT**

A copy of the subpoena is attached. **34009 ALVARADO NILES ROAD UNION CITY, CA 94587-4452**

2. IF YOU OBJECT to the production of these records, YOU MUST DO ONE OF THE FOLLOWING BEFORE THE DATE SPECIFIED. IN ITEM a. OR b. BELOW:
- a. If you are a party to the above-entitled action, you must file a motion pursuant to Code of Civil Procedure section 1987.1 to quash or modify the subpoena and give notice of that motion to the witness and the deposition officer named in the subpoena at least five days before the date set for production of the records.
 - b. If you are not a party to this action, you must serve on the requesting party and on the witness, before the date set for production of the records, a written objection that states the specific grounds on which production of such records should be prohibited. You may use the form below to object and state the grounds for your objection. You must complete the Proof of Service on the reverse side indicating whether you personally served or mailed the objection. The objection should not be filed with the court. **WARNING: IF YOUR OBJECTION IS NOT RECEIVED BEFORE THE DATE SPECIFIED IN ITEM 1, YOUR RECORDS MAY BE PRODUCED AND MAY BE AVAILABLE TO ALL PARTIES.**
3. YOU OR YOUR ATTORNEY MAY CONTACT THE UNDERSIGNED to determine whether an agreement can be reached in writing to cancel or limit the scope of the subpoena. If no such agreement is reached, and if you are not otherwise represented by an attorney in this action, YOU SHOULD CONSULT AN ATTORNEY TO ADVISE YOU OF YOUR RIGHTS OF PRIVACY.

Date: **11/02/17**

LAUREN CERRI, ESQ.

 (TYPE OR PRINT NAME)

▶

 (SIGNATURE OF REQUESTING PARTY ATTORNEY)

OBJECTION BY NON-PARTY TO PRODUCTION OF RECORDS

1. I object to the production of all of my records specified in the subpoena.
 2. I object only to the production of the following specified records:

3. The specific grounds for my objection are as follows:

Date:

 (TYPE OR PRINT NAME)

▶

 (SIGNATURE)

(Proof of service on reverse)

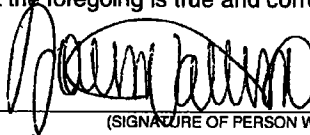
PLAINTIFF/PETITIONER: **JANE DOE**CASE NUMBER: **RG17868000**DEFENDANT/RESPONDENT: **NEW HAVEN UNIFIED SCHOOL DISTRICT****PROOF OF SERVICE OF NOTICE TO CONSUMER OR EMPLOYEE AND OBJECTION**
(Code Civ. Proc., §§ 1985.3, 1985.6) Personal Service Mail

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. I served a copy of the *Notice to Consumer or Employee and Objection* as follows (check either a or b):
 - a. **Personal service.** I personally delivered the *Notice to Consumer or Employee and Objection* as follows:
 - (1) Name of person served: _____ (3) Date served: _____
 - (2) Address where served: _____ (4) Time served: _____
 - b. **Mail.** I deposited the *Notice to Consumer or Employee and Objection* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:
 - (1) Name of person served: **MICHAEL WILLIAM HOWEY** (3) Date of mailing: **11/02/17**
 - (2) Address: **21633 AVENUE 24** (4) Place of mailing (city and state): **SAN JOSE, CA**
CHOWCHILLA, CA 93610
 - (5) I am a resident of or employed in the county where the *Notice to Consumer or Employee and Objection* was mailed.
 - c. My residence or business address is (specify): **Business: 981 Ridder Park Drive San Jose, CA 95131**
 - d. My phone number is (specify): **Business: (408) 441-7000**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: **11/02/17**Jaimee Vallino

(TYPE OR PRINT NAME OF PERSON WHO SERVED)



(SIGNATURE OF PERSON WHO SERVED)

PROOF OF SERVICE OF OBJECTION TO PRODUCTION OF RECORDS

(Code Civ. Proc., §§ 1985.3, 1985.6)

 Personal Service Mail

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. I served a copy of the *Objection to Production of Records* as follows (complete either a or b):
 - a. **ON THE REQUESTING PARTY**
 - (1) **Personal service.** I personally delivered the *Objection to Production of Records* as follows:
 - (i) Name of person served: _____ (iii) Date served: _____
 - (ii) Address where served: _____ (iv) Time served: _____
 - (2) **Mail.** I deposited the *Objection to Production of Records* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:
 - (i) Name of person served: _____ (iii) Date of mailing: _____
 - (ii) Address: _____ (iv) Place of mailing (city and state): _____
 - (v) I am a resident of or employed in the county where the *Objection to Production of Records* was mailed.
 - b. **ON THE WITNESS**
 - (1) **Personal service.** I personally delivered the *Objection to Production of Records* as follows:
 - (i) Name of person served: _____ (iii) Date served: _____
 - (ii) Address where served: _____ (iv) Time served: _____
 - (2) **Mail.** I deposited the *Objection to Production of Records* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:
 - (i) Name of person served: _____ (iii) Date of mailing: _____
 - (ii) Address: _____ (iv) Place of mailing (city and state): _____
 - (v) I am a resident of or employed in the county where the *Objection to Production of Records* was mailed.
3. My residence or business address is (specify): _____
4. My phone number is (specify): _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME OF PERSON WHO SERVED)

(SIGNATURE OF PERSON WHO SERVED)

Page 2 of 2

(PROOF OF SERVICE BY MAIL - C.C.P. 1013A)

I am employed in the county of SANTA CLARA, my business address is 981 RIDDER PARK DRIVE, SAN JOSE, CA 95131, I am over the age of eighteen (18), and am not a party to the within action(s). I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service, and that the correspondence described below will be deposited with the United States Postal Service today in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing affidavit. I served the within copy: NOTICE TO CONSUMER OR EMPLOYEE AND OBJECTION, DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS, on the below listed entities in said actions by placing said documents in a sealed envelope with postage fully prepaid and addressed as follows:

**LEONE & ALBERTS
ATTORNEYS AT LAW
2175 N. CALIFORNIA BOULEVARD
SUITE 900
WALNUT CREEK, CA 94596-5313
ATTN: MARINA B. PITTS, ESQ.
Represents: DEFENDANT
Name: NEW HAVEN UNIFIED SCHOOL DISTRICT**

**CARTWRIGHT, SCRUGGS, FULTON &
WALTHER - ATTORNEYS AT LAW
716 OCEAN STREET, STE 100
SANTA CRUZ, CA 95060
ATTN: G. DANA SCRUGGS, ESQ.
Represents: PLAINTIFF
Name: JANE DOE**

**VALLEY STATE PRISON
MICHAEL WILLIAM HOWEY (CDCR #AY2279)
21633 AVENUE 24
CHOWCHILLA, CA 93610
ATTN: MICHAEL WILLIAM HOWEY
Name: MICHAEL WILLIAM HOWEY (CDCR
#AY2279)**

and that they were deposited on 11/02/17 for deposit in the United States Postal Service and that the envelope was sealed and placed for collection and mailing that date at Quest Discovery Services, 981 RIDDER PARK DRIVE, SAN JOSE, CA 95131, following ordinary business practices.

DATED: 11/02/17 AT SAN JOSE, CALIFORNIA

I Declare under penalty of perjury that the foregoing is true and correct.

***This form was printed for
all subpoenas in this series***


signature

EXHIBIT D



555 12th Street, Suite 1500
Oakland, California 94607
tel (510) 808-2000
fax (510) 444-1108
www.meyersnave.com

Alex J. Mog
Attorney at Law
amog@meyersnave.com

November 27, 2017

Via Email & Facsimile

Lauren A. Cerri
Corisglia, McMahon & Allard
93 N. Third Street, Suite 620
San Jose, Ca 95112
(408) 289-8127

Re: Objection to Deposition Subpoena
Jane Doe 2 v. New Haven Unified School District (RG17868000)

Dear Ms. Cerri:

This office serves as the City Attorney for the City of Union City (“City”). This letter is in response to the deposition subpoena for production of business records dated November 2, 2017, and issued on behalf of your client in the above-referenced case (the “Subpoena”). The Subpoena demands production of:

“Any and all DOCUMENTS which CONCERN or relate in any way to [the Union City Police Department’s] investigation into claims, allegations and or complaints against Michael William Howey (DOB 9/20/1965) for childhood sexual abuse, inappropriate touching of children and/or sexual abuse of minors.”

As a nonparty deponent, the City is not required to file a motion to quash the defendant’s subpoena; rather a letter of objection is sufficient. The onus is on the party requesting the records to seek an order from the Court compelling production. See *Monarch Healthcare v. Superior Court of Orange County*, 78 Cal. App. 4th 1282 (2000). Therefore, this letter constitutes the City’s formal written objection to the Subpoena. The City is objecting to the release of the documents requested by the Subpoena for the reasons set forth herein.

The Child Abuse and Neglect Reporting Act, Penal Code §§ 11164 *et seq.* (“CANRA”) makes confidential police reports regarding suspected child abuse or neglect and information contained therein. A violation of the confidentiality provisions of CANRA is a misdemeanor.

Lauren A. Cerri
Re: Objection to Subpoena
November 27, 2017
Page 2

Thus, the City will not comply with the petition at this time absent a valid court order. If you have any questions, or are able to refer me to controlling legal authority that supports a different result, please feel free to contact me.

Very truly yours,



Alex J. Mog

c: Kristopher J. Kokotaylo, City Attorney
Gloria Cruz, Police Records Supervisor (via e-mail)

2891567.1

TRANSMISSION VERIFICATION REPORT

TIME : 11/27/2017 10:27
NAME :
FAX :
TEL :
SER.# : BROB9J910717

DATE, TIME	11/27 10:27
FAX NO./NAME	14082898127
DURATION	00:00:48
PAGE(S)	03
RESULT	OK
MODE	STANDARD ECM

555 12th Street, Suite 1500
Oakland, California 94607

tel (510) 808-2000
fax (510) 444-1108
www.meyersnave.com

meyers | nave

FAX TRANSMITTAL

Date: November 27, 2017
Client No: 477.048

TO: Lauren A. Cerri
Corsiglia, McMahon & Allard
tel (408) 289-1417
fax (408) 289-8127

FROM: Alex J. Mog

RE: Jane Doe 2 v. New Haven Unified School District
RG17868000

NO. OF PAGES SENT (INCL. THIS SHEET): 3

HARD COPY TO FOLLOW? No

ADDITIONAL COMMENTS:

EXHIBIT E

1 **G. DANA SCRUGGS (#96152)**
2 **SAMUEL FORBES-ROBERTS (#286586)**
3 **CARTWRIGHT, SCRUGGS, FULTON &**
4 **WALTHER**

5 716 Ocean Street, Suite 100
6 Santa Cruz, CA 95060
7 TELEPHONE: (831) 457-1700
8 FACSIMILE: (831) 457-3788

9 **B. ROBERT ALLARD (#175592)**
10 **LAUREN A. CERRI (#28524)**
11 **CORSIGLIA MCMAHON & ALLARD LLP**

12 96 NORTH THIRD STREET, SUITE 620
13 SAN JOSE, CALIFORNIA 95112
14 TELEPHONE: (408) 289-1417
15 FACSIMILE: (408) 289-8127

16 Attorneys for Plaintiffs

17 SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

18 JANE DOE, a minor, by and through her
19 Guardian ad Litem, Mrs. DOE,

20 Plaintiff,

21 vs.

22 NEW HAVEN UNIFIED SCHOOL
23 DISTRICT, MARCUS LAM, MICHAEL
24 WILLIAM HOWEY, and ROES 1
25 through 50, inclusive,

26 Defendants.

27 Lead Case No. RG16830012
28 (Consolidated with Case No. RG17868000 for
discovery)

[ASSIGNED FOR ALL PURPOSES TO HON.
FRANK ROESCH, DEPT 24]

Reservation No. R-1918810

**PROTECTIVE ORDER REGARDING
CONFIDENTIAL UNION CITY POLICE
DEPARTMENT INFORMATION**

Date: January 16, 2018
Time: 3:45 pm
Judge: The Honorable Frank Roesch

29 GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that all information, papers,
30 and tangible things furnished to plaintiffs from the Union City Police Department ("UCPD")
31 pursuant to plaintiffs' motion to release records will be deemed "CONFIDENTIAL UCPD
32 INFORMATION" and protected by the terms of this Protective Order. The purpose of this
33 Protective Order is to protect the confidentiality of reports and/or information pertaining to

1 suspected child abuse or neglect under Penal Codes sections 11167 and 11167.5.

2 1. CONFIDENTIAL UCPD INFORMATION, as well as summaries, excerpts and
3 extracts thereof, shall not be disclosed to or made accessible to any person except as specifically
4 permitted by this Protective Order. CONFIDENTIAL UCPD INFORMATION shall be used
5 solely in the preparation for the trial in this case and any related cases, the trial itself, or for
6 purposes of settlement and shall not be used at any time for any other purpose.

7 2. CONFIDENTIAL UCPD INFORMATION may be disclosed only to:

- 8 (a) The court, its clerk and research attorneys;
- 9 (b) Attorneys actively involved in the representation of a Party, their
10 secretaries, paralegal, assistants, and other staff actively involved in
11 assisting in the litigation;
- 12 (c) Any expert or consultant who is retained by any of the parties or their
13 counsel of record to assist counsel in the litigation, and any employee of
14 such an expert assisting in the litigation;
- 15 (d) Any person called to testify as a witness either at a deposition or court
16 proceeding in the litigation, but only to the extent necessary for the
17 purposes of assisting in the preparation or examination of the witness,
18 and also only if such persons are informed of the terms of this Protective
19 Order, provided with a copy of the Protective Order and asked if he or
20 she is agreeable, on the record, to be bound by the terms of the Protective
21 Order and thus required not to disclose information contained in the
22 CONFIDENTIAL UCPD INFORMATION;
- 23 (e) Deposition and court reporters and their support personnel, for purposes
24 of preparing transcripts;
- 25 (f) Employees of outside copying services and other vendors retained by
26 counsel to assist in the copying, imaging, handling or computerization of
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documents, but only to the extent necessary to provide such services in connection with the litigation and only after being informed of the provisions of this Protective Order and agreeing to abide by its terms;

- (g) Mediators or other Alternative Dispute Resolution neutrals (including their employees, agents, and contractors) to whom disclosure is reasonably necessary to their involvement in the litigation;
- (h) Any person who created a document or was the recipient thereof; and
- (i) The Parties and their Insurance Carriers.

3. Each person to whom CONFIDENTIAL UCPD INFORMATION is disclosed (other than persons described in paragraphs 2(a), 2(e), or 2(g)) shall execute the non-disclosure agreement attached as **EXHIBIT A** prior to his or her receipt of the CONFIDENTIAL UCPD INFORMATION, and shall agree to be bound by this Protective Order and to be subject to the jurisdiction of this court for the purposes of enforcement. Counsel disclosing CONFIDENTIAL UCPD INFORMATION to persons required to execute non-disclosure agreements shall retain all such executed agreements. Copies of the executed agreements shall be preserved by counsel and shall be provided to the opposing party if the court so orders upon a showing of good cause.

4. In any event, whether in an interview or deposition, witnesses shown CONFIDENTIAL UCPD INFORMATION shall not be allowed to retain any copies of documents containing such information.

5. In connection with discovery motions or proceedings, not governed by California Rules of Court, Rules 2.550 and 2.551, records/papers/documents directly from the UCPD deemed CONFIDENTIAL UCPD INFORMATION or copies thereof, shall be separately filed under seal with the clerk of the Court in an envelope marked: "CONFIDENTIAL – FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER AND WITHOUT ANY FURTHER SEALING ORDER REQUIRED."

1 6. Where any records/papers/documents directly from the UCPD deemed
2 CONFIDENTIAL UCPD INFORMATION or copies thereof are included in any motion or
3 other proceeding governed by California Rules of Court, Rules 2.550 and 2.551, the party shall
4 file them under seal pursuant to those rules.

5 7. All provisions of this Protective Order restricting the communication or use of
6 CONFIDENTIAL UCPD INFORMATION shall continue to be binding after the conclusion of
7 the action, unless otherwise agreed or ordered.
8

9 **IT IS SO ORDERED.**
10

11 DATED: _____

The Honorable Frank Roesch
Judge of the Superior Court

14 **APPROVED AS TO FORM**
15

16 Dated: _____, 2017

CORSIGLIA MCMAHON & ALLARD LLP

18 By _____

B. Robert Allard
Lauren A. Cerri
Attorneys for Plaintiffs

22 Dated: _____, 2017

LEONE & ALBERTS

24 By _____

Marina Pitts
Attorneys for Defendants New Haven
Unified School District and Marcus Lam

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Dated: _____, 2017

MEYERS, NAVE, RIBACK,
SILVER & WILSON

By _____

Kris J. Kokotaylo
Attorneys for City of Union City

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EXHIBIT A
NON-DISCLOSURE AGREEMENT

I, _____, do solemnly swear that I am fully familiar with the terms of the Protective Order and hereby agree to comply with and be bound by the terms and conditions of said order unless and until modified by further order of this Court. I acknowledge and understand that the Protective Order makes certain information confidential and prohibits me from disclosing such information. I hereby consent to the jurisdiction of said Court for purposes of enforcing this order.

Dated: _____

Signature

Printed Name

1 **G. DANA SCRUGGS (#96152)**
2 **SAMUEL FORBES-ROBERTS (#286586)**
3 **CARTWRIGHT, SCRUGGS, FULTON &**
4 **WALTHER**

5 716 Ocean Street, Suite 100
6 Santa Cruz, CA 95060
7 TELEPHONE: (831) 457-1700
8 FACSIMILE: (831) 457-3788

9 **B. ROBERT ALLARD (#175592)**
10 **LAUREN A. CERRI (#28524)**
11 **CORSIGLIA MCMAHON & ALLARD LLP**

12 96 NORTH THIRD STREET, SUITE 620
13 SAN JOSE, CALIFORNIA 95112
14 TELEPHONE: (408) 289-1417
15 FACSIMILE: (408) 289-8127

16 Attorneys for Plaintiffs

17 SUPERIOR COURT OF CALIFORNIA, ALAMEDA COUNTY

18 JANE DOE, a minor, by and through her
19 Guardian ad Litem, Mrs. DOE,

20 Plaintiff,

21 vs.

22 NEW HAVEN UNIFIED SCHOOL
23 DISTRICT, MARCUS LAM, MICHAEL
24 WILLIAM HOWEY, and ROES 1 through 50,
25 inclusive,

26 Defendants.

Lead Case No. RG16830012
(Consolidated with Case No. RG17868000 for
discovery)

[ASSIGNED FOR ALL PURPOSES TO
HON. FRANK ROESCH, DEPT 24]

Reservation No. R-1918810

PROOF OF SERVICE

Date: January 16, 2018
Time: 3:45 pm
Judge: The Honorable Frank Roesch

27 I am a citizen of the United States. My business address is 96 North Third Street, Suite 620,
28 San Jose, CA 95112. I am employed in the County of Santa Clara, where this mailing occurs.
I am over the age of 18 years, and not a party to the within cause. On the date set forth below, I
served the attached document(s) described as:

**PLAINTIFFS' NOTICE OF MOTION AND MOTION TO RELEASE
CONFIDENTIAL RECORDS PURSUANT TO PENAL CODE §§ 11167(d)(1),
11167.5(b)(1); MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
THEREOF, DECLARATION OF LAUREN A. CERRI IN SUPPORT THEREOF, and
[PROPOSED] ORDER**

1 on the following person(s) in this action by placing a true copy thereof enclosed in a sealed
2 envelope addressed as follows:

3 Marina B. Pitts, Esq.
4 Leone & Alberts
5 2175 N. California Blvd., Suite 900
6 Walnut Creek, CA 94596
7 (925) 974-8600
8 Email: mpitts@leonealberts.com

Attorney for Defendant New Haven Unified
School District

9 Dana Scruggs, Esq.
10 Samuel Forbes-Roberts, Esq.
11 CARTWRIGHT, SCRUGGS, FULTON &
12 WALTHER
13 716 Ocean Street, Suite 100
14 Santa Cruz, CA 95060
15 (831) 457-1700
16 Fax: 831-457-3788
17 Email: dana@csfwlaw.com
18 Email: sam@csfwlaw.com

Attorney for Plaintiff Jane Doe (Related Case
No. RG16830012)

19 Michael William Howey (CDCR #AY2279)
20 Valley State Prison
21 21633 Avenue 24
22 Chowchilla, CA 93610

Defendant In Pro Per

23 Alex J. Mog, Esq.
24 MEYERS - NAVE
25 555 12th Street, Suite 1500
26 Oakland, California 94607
27 (510) 808-2000
28 Fax (510)444-1108
Email: amog@meyersnave.com

City Attorney for the City of Union City

19 (BY MAIL) I am readily familiar with my firm's practice for collection and processing
20 of correspondence for mailing with the United States Postal Service, to wit, that
21 correspondence will be deposited with the United States Postal Service this same day in
22 the ordinary course of business. I sealed said envelope and placed it for collection and
23 mailing on December 18, 2017, following ordinary business practices (**as to Michael
24 William Howey, only**).

25 (BY PERSONAL SERVICE) I caused such envelope(s) to be delivered by hand this
26 date to the offices of the addressee(s).

27 (BY FACSIMILE) I caused such document(s) to be delivered via facsimile this date to
28 the offices of the addressee(s).

(BY OVERNIGHT MAIL) I enclosed the documents in an envelope or package
provided by an overnight delivery carrier and addressed to the person(s) at the
address(es) listed above. I placed the envelope or package for collection and overnight
delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

(BY EMAIL OR ELECTRONIC TRANSMISSION) Based on a court order or an
agreement of the parties to accept service by e mail or electronic transmission, I caused
the documents to be sent to the persons at e-mail address above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 18, 2017, at San Jose, California.


Kimberlee Telesco

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