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F I L E D
Clerk of the Superior Court

APR 07 2015

By: J. CERDA, Deputy

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

SAN DIEGANS FOR OPEN GOVERNMENT,) Case No. 37-2014-00000217-CU-MC-CTL
)
Plaintiff,) ~~PROPOSED~~ ORDER AND
) JUDGMENT ON SAN DIEGANS FOR
v.) OPEN GOVERNMENT'S FIRST
) AMENDED COMPLAINT AND
14 JAN I. GOLDSMITH; CITY OF SAN DIEGO;) PETITION FOR WRIT OF MANDATE
and DOES 1 through 100,)
) [IMAGED FILED]
Defendants.)
) I/C Judge: Hon. Joel R. Wohlfeil
) Dept.: 73
) Cmplt Filed: January 28, 2014
) Trial: January 15, 2015

WHEREAS, on January 28, 2014, Petitioner/Plaintiff San Diegans for Open Government (Petitioner) filed a Complaint and Petition for Writ of Mandate against Respondents/Defendants City of San Diego (City) and City Attorney Jan I. Goldsmith (Goldsmith), alleging a first cause of action for writ of mandate under the California Public Records Act and a second cause of action for declaratory relief;

WHEREAS, on March 26, 2014, Petitioner filed a First Amended Complaint and Petition For Writ of Mandate against City and Goldsmith (collectively "Respondents"), adding a third cause of action for waste under California Code of Civil Procedure section 526a;

WHEREAS, in November, 2014, the third cause of action for waste was dismissed with prejudice;

1 WHEREAS, Petitioner's First Amended Complaint and Petition for Writ of Mandate
2 came on regularly for trial at 3:00 p.m. on January 15, 2015, in Department C-73 of the San
3 Diego County Superior Court, before the Honorable Joel R. Wohlfeil, sitting without a jury.
4 Petitioner appeared by and through attorney Cory J. Briggs; Respondents appeared by and
5 through Deputy City Attorneys David Karlin and Catherine Richardson. At that time, the Court,
6 on its own motion, bifurcated the matter of the City's Privilege Log from the remaining trial
7 issues. The first phase of the trial proceeded and concluded on January 15, 2015.

8 WHEREAS, on February 19, 2015, at 3:00p.m., Judge Wohlfeil sitting without a jury,
9 heard argument on the Privilege Log phase of the trial. Petitioner appeared by and through
10 attorney Cory J. Briggs; Respondents appeared by and through Deputy City Attorneys David
11 Karlin and Catherine Richardson.

12 Based on the pleadings, arguments of counsel, and record from the trial, **IT IS**
13 **ORDERED, ADJUDGED, AND DECREED that:**

- 14 1. The Court grants in part and denies in part, Petitioner's First Amended Complaint
15 and Petition for Writ of Mandate.
- 16 2. The Court denies the Petition for Writ of Mandate as to defendant Goldsmith.
- 17 3. As to defendant City, on the Second Cause of Action seeking declaratory relief,
18 the Court declares that the City improperly narrowed the CPRA request to only email messages
19 maintained on the private Yahoo server, thereby failing to produce documents stored in the City
20 email system. Rather than reject the CPRA request in total, the City should have sought
21 clarification per Government Code section 6253.1, or attempted to provide a partial response (as
22 it later did). Thus, the City's initial response was improper and Petitioner is entitled to a judicial
23 declaration stating as much.

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1 4. As to defendant City on the First Cause of Action, the Court holds that the City
2 had a duty to inquire, retrieve, inspect, and produce emails sent by, or received in response to an
3 initial email initiated by Mr. Goldsmith's personal email account. However, the Court finds
4 that the City Attorney's representation under oath, at paragraph 5 of his declaration, constitutes
5 compliance with Petitioner's CPRA request and satisfies any further duty of inquiry by the City
6 to retrieve, inspect and produce emails from the City Attorney's personal e-mail account.

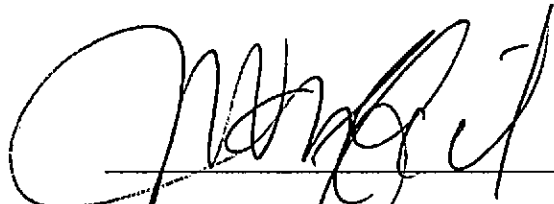
7 5. Further as to defendant City on the First Cause of Action, the Court finds that the
8 City has failed to meet its burden to demonstrate that the emails, identified as Category Nos. 1, 2,
9 3 and 5 in Exhibit 9 to Respondents' Opposition to Petitioner's Opening Brief in Support of First
10 Amended Complaint and Petition for Writ of Mandate, are privileged or exempt under the
11 express provisions of the California Public Records Act, and orders the City to produce these
12 emails to Petitioner within forty-five (45) days of the date of this Order.

13 6. The Court reserves jurisdiction over the issue of attorney's fees that may be
14 awarded to the prevailing party in this lawsuit until a timely motion therefor has been filed,
15 served, and ruled on.

16 7. The Court reserves jurisdiction over the issue of costs that may be awarded to the
17 prevailing party in this lawsuit until a timely memorandum of costs has been filed and the Court
18 has ruled on any motion to strike or tax the memorandum of costs.

19
20 **IT IS SO ORDERED.**

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22 Dated: 4-7, 2015



Hon. Joel R. Wohlfeil
Jude of the Superior Court

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO <input type="checkbox"/> COUNTY COURTHOUSE, 220 W. BROADWAY, SAN DIEGO, CA 92101-3814 <input checked="" type="checkbox"/> HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101-3827 <input type="checkbox"/> FAMILY COURT, 1555 6TH AVE, SAN DIEGO, CA 92101-3294 <input type="checkbox"/> MADGE BRAOLEY BLDG., 1409 4TH AVE., SAN DIEGO, CA 92101-3105 <input type="checkbox"/> KEARNY MESA BRANCH, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123-1187 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92083-6643 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020-3941 <input type="checkbox"/> RAMONA BRANCH, 1428 MONTECITO RD., RAMONA, CA 92065-5200 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910-5849 <input type="checkbox"/> JUVENILE COURT, 2851 MEADOW LARK DR., SAN DIEGO, CA 92123-2792 <input type="checkbox"/> JUVENILE COURT, 325 S. MELROSE DR., VISTA, CA 92083-6634	FOR COURT USE ONLY F I L E D Clerk of the Superior Court APR 07 2015 By: J. CERDA, Deputy
PLAINTIFF(S)/PETITIONER(S) SAN DIEGANS FOR OPEN GOVERNMENT	JUDGE: Joel R. Wohlfell DEPT: 73
DEFENDANT(S)/RESPONDENT(S) JAN I. GOLDSMITH; CITY OF SAN DIEGO et al	CASE NUMBER 2014-0000217
CLERK'S CERTIFICATE OF SERVICE BY MAIL (CCP 1013a(4))	

I, certify that: I am not a party to the above-entitled case; that on the date shown below, I served the following document(s):
Order and Judgment on San Diegans for Open Government's First Amended Complaint and Petition for Writ of Mandate

on the parties shown below by placing a true copy in a separate envelope, addressed as shown below; each envelope was then sealed and, with postage thereon fully prepaid, deposited in the United States Postal Service at: San Diego Vista El Cajon Chula Vista Ramona, California.

NAME & ADDRESS

NAME & ADDRESS

Briggs Law Corporation
Cory J. Briggs, Esq.
99 East "C" St., Ste. 111
Upland, CA 91786

David Karlin, Deputy City Attorney
Office of the City Attorney
1200 Third Ave., Ste. 1100
San Diego, CA 92101

CLERK OF THE SUPERIOR COURT

Date: April 8, 2015 by *JS*, Deputy
J. Cerda