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5 Attorneys for Respondents Mark A. Fajardo, M.D.; County of Los Angeles (sued as itself and as  
Dept. of Medical Examiner/Coroner and County of Los Angeles Sheriff's Department); and Jim  
6 McDonnell

7 **[EXEMPT FROM FILING FEE  
GOVERNMENT CODE § 6103]**

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

12 SAMUEL A. PERRONI, ) CASE NO.BS159430  
13 )  
Petitioner, ) (*Assigned for All Purposes to the*  
14 ) (*Honorable James C. Chalfant, Dept. 85*)  
vs. )  
15 MARK A. FAJARDO, M.D., IN HIS ) **RESPONDENTS' ANSWER TO**  
OFFICIAL CAPACITY AS CHIEF MEDICAL ) **COMPLAINT**  
16 EXAMINER-CORONER; LOS ANGELES )  
COUNTY DEPARTMENT OF MEDICAL )  
17 EXAMINER-CORONER; JIM McDONNELL, )  
IN HIS OFFICIAL CAPACITY AS SHERIFF; )  
18 AND THE COUNTY OF LOS ANGELES )  
SHERIFF'S DEPARTMENT )  
19 Respondents. )  
20 )  
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23 Respondents Mark A. Fajardo, Jim McDonnell, and the County of Los Angeles (sued as  
24 itself and erroneously sued as the Los Angeles County Department of Medical Examiner-Coroner  
25 and the Los Angeles County Sheriff's Department) ("the County") respond to the petition for writ  
26 of mandate as follows:

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1           1.       Respondents deny generally and specifically each and every allegation in paragraph  
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4           2.       Respondents lack sufficient information and belief to respond to the allegations  
5 contained in paragraph 1.

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7           3.       In response to paragraph 2, Respondents admit that respondent Fajardo is the Chief-  
8 Medical Examiner-Coroner for the County of Los Angeles. They deny that the Medical Examiner-  
9 Coroner is a local government agency because the Coroner is a department within the County of  
10 Los Angeles. They admit that as a department within the County, the Coroner is a “public agency”  
11 within the scope of the California Public Records Act (“CPRA”), and that it may be compelled to  
12 release records which a Court determines have been improperly withheld. They also deny that the  
13 Sheriff’s Department is a local government agency organized and operating in Los Angeles,  
14 California, as the Department is a division of the County of Los Angeles. They admit that as a  
15 department within the County, the Sheriff’s Department is a “public agency” within the scope of  
16 the CPRA, and that it may be compelled to release records which a Court determines have been  
17 improperly withheld. They admit that Respondent McDonnell is the County Sheriff.

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19           4.       In response to paragraph 3, Respondents admit the following portions: That on  
20 March 30, 2015 Petitioner forwarded a request for public records in Coroner’s Case Number 81-  
21 15167 regarding Natalie Wagner to Respondent Medical Examiner and that on April 3, 2015,  
22 Respondent County advised him that he owed an additional \$1 to obtain the requested records.  
23 They admit that Respondent County provided Petitioner with a copy of the original autopsy report  
24 for Natalie Wagner (Case No. 81-15167), which did not include the “Miller Report.” They admit  
25 the authenticity of Exhibits “A,” “B,” “C,” “D,” “E,” and “F,” and that those documents include  
26 the contents alleged. They admit that Petitioner specifically advised Respondents that the “Miller  
27 Report” was probably in Respondents’ microfilm archives, but it can neither admit nor deny that  
28 this statement was made “[i]n order to assist the records custodian.” They deny that: “any no time

1 was there an objection or denial of Petitioner’s request”. They can neither admit not deny that  
2 Petitioner was specific in seeking the consultation report of Paul Miller, as this allegation calls for  
3 a legal conclusion. They also cannot admit or deny that “Of course, because the autopsy report can  
4 be obtained online, Petitioner already had, it turns out, most of the autopsy report” because  
5 Respondents lack information to either admit or deny that allegation. They cannot admit nor deny  
6 that in June 2015 Petitioner received “what was obviously a microfilm copy” of the autopsy report  
7 because they lack information about what Petitioner received in the mail, and when he received it.  
8 Respondents admit that the autopsy report attached to the Petition as Exhibit “E” did not contain a  
9 copy of the Miller report. They can neither admit nor deny if the copy of the report contained “a  
10 few additional pages not found in the online copy of the autopsy report,” as they lack information  
11 concerning versions of the autopsy report that exist on the Internet. They also admit that on June  
12 15, 2015, Petitioner sent a third letter to the Respondent Coroner concerning the autopsy report.

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14 5. In response to paragraph 4, Respondents admit that on July 30, 2015, Petitioner  
15 submitted a request to Respondent Fajardo for a copy of the “Miller Report”; that Exhibit “G” is a  
16 true and correct copy of that request; and that the letter stated that it was Petitioner’s fourth attempt  
17 to secure information under the CPRA. Respondents also admit that Exhibit “H” is a true and  
18 correct copy of the August 5, 2012 letter from Lev Levon, Chief of Public Services of Respondent,  
19 as well as the recitations of the portion of that document within the petition. Respondents cannot  
20 admit or deny that “After his letter of June 15, 2015, Petitioner heard nothing.” Respondents deny  
21 that they violated section 6253(c) of the California Public Records Act.” Respondents deny that  
22 Petitioner has not received a refund as indicated in Mr. Levon’s letter.

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24 6. In response to Paragraph 5, Respondents admit the authenticity of Exhibit “I” as  
25 well as the statements that Petitioner made in Exhibit “I.” Respondents cannot admit or deny the  
26 characterizations or legal conclusions made by Petitioner in Exhibit “I,” as set forth in paragraph 5.  
27 Respondents also admits that Exhibit “I” was also sent to Respondent Fajardo.

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1           7.       In response to Paragraph 6, Respondents admit the authenticity of Exhibit “J,” the  
2 August 24, 2015, letter from Respondent Fajardo to Petitioner. They deny that Exhibit “J”  
3 contained an “admission” by Respondent Fajardo that “Mr. Paul Miller was employed by the  
4 County of Los Angeles in 1981 as a “Deputy Medical Examiner”, as well as that the letter stated  
5 that Paul Miller was employed by the County of Los Angeles in 1981 as a “Deputy Medical  
6 Examiner.” They deny that the exemptions for document disclosure cited in Exhibit “J” are  
7 “pretextual, wholly without merit and baseless.” They lack information to either admit or deny the  
8 statement that “(even though Petitioner obviously knew it)”. They admit the remainder of  
9 Paragraph 6.

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11           8.       In response to Paragraph 7, Respondents admit the paragraph in its entirety except  
12 it denies that the request asked for any and all “statements” and that it violated California  
13 Government Code section 6253, subdivision (c).

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15           9.       In response to Paragraph 8, Respondents lack information to either admit or deny  
16 the statement that “Petitioner heard nothing and received nothing.” They admit the remainder of  
17 Paragraph 8.

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19           10.      In response to Paragraph 9, Respondents lack information to respond to the  
20 statement that “The response also indicated that Respondent Sheriff’s Department file number  
21 concerning Natalie Wood Wagner is apparently ‘081-00898-1873-496.’” They admit the  
22 remainder of Paragraph 9.

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24           11.      In response to Paragraph 10, Respondents admit that there are two complaint report  
25 numbers for the Natalie Wood Wagner file.

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27           12.      In response to Paragraph 11, Respondents admit the authenticity of Exhibit “N,” but  
28 lack information as to the reason petitioner sent Exhibit “N” to Respondents. Respondents admit

1 that in Exhibit “N,” Petitioner discussed the exemptions cited by the Sheriff’s Department for  
2 denying his request for records, but they deny that Petitioner “dissected” the exemptions or  
3 “pointed out” that at least three different sources had referred to interview reports from the  
4 sources. Respondents admit that Exhibit “N” includes the statements that Paragraph 11 alleges  
5 that it contains, but deny that Sheriffs Department representatives “posed” for the Enquirer or  
6 made comments about their re-enactment work. Respondents also deny that the URL set forth in  
7 the Petition documents any photographs or comments by the Sheriff’s Department. Respondents  
8 deny that McDonnell and the Sheriff’s Department have waived any CPRA exceptions by the  
9 public disclosure of the Wagner file. Respondents also deny that in Exhibit “N,” Petitioner  
10 “attempted to reason” with them.

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12 13. In response to Paragraph 13, Respondents admit that California Government Code  
13 section 6253 provides for the disclosure of public records not otherwise exempt from disclosure,  
14 but denies that Petitioner has properly quoted the provision of that section in the Petition.  
15 Respondents deny the remainder of paragraph 13.

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17 14. In response to Paragraph 14, Respondents admit that California Government Code  
18 section 6253(a) provides, in part, “[a]ny reasonably segregable portion of [a] record shall be  
19 available for inspection by any person requesting the record after deletion of the portions that are  
20 exempted by law.” They deny the remainder of that paragraph.

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22 15. In response to Paragraph 15, Respondents admit that California Government Code  
23 section 6259, subdivisions (a) and (b) authorizes the Court to compel Respondents to release  
24 documents, but it denies that this Court may compel the Respondents to do so here.

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**AFFIRMATIVE DEFENSES**

**First Affirmative Defense**

16. The petition and each separate allegation contained therein fail to state facts sufficient to support the requested writ of mandate.

**Second Affirmative Defense**

17. Petitioner’s petition for writ of mandate fails because respondents have at all times fully performed their statutory and regulatory duties and properly exercised their discretion.

**Third Affirmative Defense**

18. Petitioner’s petition is barred by the doctrine of unclean hands.

**Fourth Affirmative Defense**

19. Petitioner’s petition is barred by the doctrine of in pari delicto.

**Fifth Affirmative Defense**

20. The documents requested, or a portion thereof, are preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, and the public interest in withholding those records clearly outweighs the public interest in disclosure. (Gov. Code, §6254, subd. (a).)

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**Sixth Affirmative Defense**

21. Release of the documents sought by Petitioner would constitute an unwarranted invasion of personal privacy. (Gov. Code, § 6254, subd. (c).)

**Seventh Affirmative Defense**

22. The documents requested are records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or investigatory or security files compiled by any other state or local police agency, or investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes; disclosure thereof would endanger the successful completion of the investigation. (Gov. Code, §6254, subd. (f).)

**Eighth Affirmative Defense**

23. The documents requested are records protected from disclosure under federal or state law, including Evidence Code privileges. (Gov. Code, §6254, subd. (k).)

**Ninth Affirmative Defense**

24. There has been no waiver by previous disclosure of the documents requested, because to the extent that the documents were disclosed, any disclosure was made pursuant to the Information Practices Act (commencing with Section 1798 of the Civil Code) or discovery proceedings. (Gov. Code, §6254.5, subd. (a).)

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**Tenth Affirmative Defense**

25. There has been no waiver by previous disclosure of the documents requested, because to the extent that the documents were disclosed, any disclosure was made through other legal proceedings or as otherwise required by law. (Gov. Code, §6254.5, subd. (b).)

**Eleventh Affirmative Defense**

26. There has been no waiver by previous disclosure of the documents requested, because to the extent that the documents were disclosed, any disclosure was made within the scope of disclosure of a statute which limits disclosure of specified writings to certain purposes. (Gov. Code, §6254.5, subd. (c).)

**Twelfth Affirmative Defense**

27. There has been no waiver by previous disclosure of the documents requested, because to the extent that the documents were disclosed, any disclosure was made to any governmental agency which agrees to treat the disclosed material as confidential. (Gov. Code, §6254.5, subd. (e).)

**Thirteenth Affirmative Defense**

28. The California Public Records Act cannot be utilized to compel disclosure of social security numbers. (Gov. Code, §6254.29.)

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**Fourteenth Affirmative Defense**

29. The public interest in disclosure in the records requested by Petitioner is outweighed by the public interest in nondisclosure. (Gov. Code, §6255, subd. (a).)

**Fifteenth Affirmative Defense**

30. Disclosure of the records to the district attorney, if such a disclosure was made, does not constitute a waiver by previous disclosure of the documents requested. (Gov. Code, § 6265.)

**Sixteenth Affirmative Defense**

31. The information requested is protected by the attorney-client privilege.

**Seventeenth Affirmative Defense**

32. The information requested is privileged under Evidence Code section 1040.

**Eighteenth Affirmative Defense**

33. Petitioner may not recover attorney fees for legal work performed for himself in propria persona.

**Nineteenth Affirmative Defense**

34. Information contained within the documents sought by Petitioner is protected by the privacy protection of Article I, Section 1 of the California Constitution.

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**Twentieth Affirmative Defense**

35. The documents sought by Petitioner and the information contained in them are protected by the Deliberative Process Privilege.

**Twenty-First Affirmative Defense**

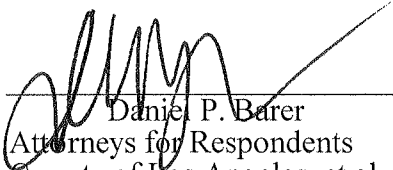
36. Release of materials sought by Petitioner, including but not limited to, photographs or reproductions of photographs of a deceased person, is prohibited by the provisions of Code of Civil Procedure section 129.

Wherefore, respondents Mark A. Fajardo, Jim McDonnell, and the County of Los Angeles, pray:

- 1. That the petition be denied in its entirety;
- 2. That the petitioner take nothing by its petition;
- 3. For costs of suit herein; and
- 4. For such other and further relief as the Court deems just and proper.

DATED: February 9, 2016

POLLAK, VIDA & FISHER

By:   
 Daniel P. Barer  
 Attorneys for Respondents  
 County of Los Angeles, et al.

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1 **PROOF OF SERVICE**  
2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 7550.107

4 I am employed in the County of Los Angeles, State of California. I am over the age of 18  
5 and not a party to the within action; my business address is 11150 West Olympic Boulevard, Suite  
6 980, Los Angeles, California 90064-1839.

7 On **February 9, 2016**, I served the foregoing document described as on the interested  
8 parties in this action by placing [ ] the original [X] a true copy thereof enclosed in sealed  
9 envelopes addressed as follows:

10 Samuel A. Perroni  
11 Samuel A. Perroni, P.A.  
12 424 West 4<sup>th</sup> Street, Suite A  
13 North Little Rock, AZ 72114  
14 [sperroni.perronilaw@gmail.com](mailto:sperroni.perronilaw@gmail.com)  
15 Tel.: 501-374-2818/Fax. No.: 501-353-0517

16 [ ] **(BY MAIL)** I deposited such envelopes in the mail at Los Angeles, California. The  
17 envelope was mailed with postage thereon fully prepaid, as follows: I am "readily familiar" with  
18 the firm's practice of collection and processing correspondence for mailing. Under that practice it  
19 would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at  
20 Los Angeles, California in the ordinary course of business.

21 [ ] **(BY PERSONAL SERVICE)** I delivered such envelope by hand to the offices of the  
22 addresses above.

23 [ ] **(BY FEDERAL EXPRESS)** I caused said envelope to be sent by Federal Express to the  
24 addressee(s) identified.

25 [X] **(BY EMAIL)** With the permission of the above-identified addressees, I transmitted the  
26 attached document via the email addresses provided.

27 [ ] **(BY FACSIMILE)** At the time indicated on the transmission report from fax phone  
28 number , the facsimile machine I used complied with Rule 2003(3) and the transmission was  
reported as complete and without error. Pursuant to Rule 2008(e)(4), the attached transmission  
report was properly issued by the transmitting facsimile machine.

[X] (State) I declare under penalty of perjury under the laws of the State of California that the  
above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at  
whose direction the service was made.

Executed on **February 9, 2016**, at Los Angeles, California.

29   
Cindy Bishop

30 G:\WPDOCS\7550\7550.107\pos-answer-cb-2.9.16.wpd