

1 DANIEL P. BARER (SBN 150812)
2 ANNA L. BIRENBAUM (SBN 217588)
3 POLLAK, VIDA & BARER
4 11500 West Olympic Boulevard, Suite 400
5 Los Angeles, California 90064
6 Telephone (310) 551-3400
7 Facsimile (424) 535-1225

8 Attorneys for defendant,
9 COUNTY OF LOS ANGELES

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF LOS ANGELES

13 SAMUEL A. PERRONI,

14 Petitioner,

15 vs.

16 MARK A. FAJARDO, M.D., IN HIS
17 OFFICIAL CAPACITY AS CHIEF
18 MEDICAL EXAMINER-CORONER;
19 LOS ANGELES COUNTY
20 DEPARTMENT OF MEDICAL
21 EXAMINER-CORONER; JIM
22 McDONNELL, IN HIS OFFICIAL
23 CAPACITY AS SHERIFF; AND THE
24 COUNTY OF LOS ANGELES
25 SHERIFF'S DEPARTMENT

26 Respondents.

CASE NO. BS159430

Assigned to Hon. James C. Chalfant
Dept. 85

**NOTICE OF ENTRY OF ORDER
DENYING MOTION FOR
ENFORCEMENT OF COURT'S PRIOR
ORDER**

Judge: Hon. James C. Chalfant
Date: September 1, 2020
Time: 1:30 p.m.
Dept.: 85

27 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

28 PLEASE TAKE NOTICE that, at the above-stated date, time, and department, petitioner Samuel A. Perroni's motion for enforcement of the court's prior order, or in the alternative, for enforcement of the court's final judgment, came for hearing in Department 85 of the Los Angeles Superior Court, Central, before the Hon. James C. Chalfant. Vince Chadick, Brandon Cate, and Garrett Llewellyn appeared on behalf of petitioner Samuel A. Perroni. Daniel P. Barer and Anna L. Birenbaum appeared on behalf of respondent the County of Los Angeles.

1 After hearing the arguments of counsel, the Court denied petitioner's motion, adopting its
2 tentative ruling as the final ruling of the Court. A copy of the Court's minute order and tentative
3 ruling, adopted as the final ruling, are attached hereto.

4
5 DATED: September 2, 2020

POLLAK, VIDA & BARER
DANIEL P. BARER
ANNA L. BIRENBAUM

7 */S/ Daniel P. Barer*

8 By: _____

DANIEL P. BARER
Attorney for defendant
COUNTY OF LOS ANGELES



ONLINE SERVICES

Tentative Rulings

DEPARTMENT 85 LAW AND MOTION RULINGS**Case Number:** BS159430 **Hearing Date:** September 01, 2020 **Dept:** 85Samuel A. Perroni v. Mark A. Fajardo, M.D., et al., BS159430

Tentative decision on motion to enforce the court's order: denied

Petitioner Samuel A. Perroni ("Perroni") moves for an order directing Respondent Los Angeles County Sheriff's Department ("LASD")^[1] to comply with the court's prior ruling in this action, or in the alternative, for an order enforcing the court's final judgment.

The court has read and considered the moving papers, opposition,^[2] and reply, and renders the following tentative decision.

A. Statement of the Case**1. Petition**

Petitioner Perroni, acting *pro per*, commenced this proceeding on November 10, 2015, alleging a cause of action pursuant to the California Public Records Act ("CPRA"). The verified Petition alleges in pertinent part as follows.

a. The Coroner Request

On March 30, 2015, Petitioner forwarded a request for public records in Coroner's Case Number: 81-15 167 regarding Natalie Wood Wagner ("Natalie Wood") to Respondent Los Angeles County Department of Medical-Examiner Coroner ("Coroner"). Petitioner was specific in seeking the Consultation Report of Mr. Paul Miller ("Miller Report"). In response to Petitioner's request, the Coroner provided a copy of the original autopsy report for Natalie Wood (Case No. 81-15167), which did not contain the Miller Report.

On May 18, 2015, Petitioner sent a second request to the Coroner concerning the Miller Report which added a request for "any other documents in the Microfilm Archives in this case." In order to assist the records custodian, Petitioner specifically advised Respondent Coroner that the Miller Report was probably in the Coroner's microfilm archives because its retrieval was mentioned in a supplemental autopsy report prepared on June 15, 2012 by the previous Medical Examiner-Coroner, Dr. Sathyavagiswaran ("Sathyavagiswaran"). In June 2015, Petitioner received a microfilm copy of the original autopsy report for Natalie Wood (Case No. 81-15167). The microfilm copy did not contain a copy of the Miller Report.

Accordingly, on June 15, 2015, Petitioner again specifically requested that the Coroner provide him with the Miller Report "and any other documents in the microfilm archives in this case that have not already been provided." After his letter of June 15, 2015, Petitioner heard nothing. On July 30, 2015, over forty-five days after Petitioner's third request for the Miller Report, Petitioner submitted a request directly to Respondent Fajardo in his capacity as Chief Medical Examiner-Coroner.

On August 5, 2015, Petitioner received correspondence from Lev Levon ("Levon"), Chief of Public Services of the Coroner. In that correspondence, Levon stated that the "consult/evaluation report of Mr. Paul Miller is not public record (sic) and was not generated by this department, and, therefore not disclosable by this department." In addition, Levon stated that "any information considered from Mr. Paul Miller's original evaluation for the re-evaluation of the Coroner's report has been incorporated in the disclosable Supplemental Autopsy report completed on May 20, 2012."

On August 13, 2015, Petitioner responded to Levon's letter, pointing out that the Miller Report was indeed a public record and in the Coroner's possession. In addition, Petitioner pointed out that the Miller Report was created at the request of Dr. Thomas Noguchi ("Noguchi"), the Coroner at the time of the original autopsy, and Miller was a Coroner's Office Deputy and Ocean Accident Consultant. Petitioner explained that no less than three authors have referred to portions of the Miller Report in books and magazines over the years. As a consequence, any claim of exemption had been waived by public disclosure of the Natalie Wood file and the Miller Report.

In a letter dated August 24, 2015, Respondent Fajardo stated that even though the Miller Report was mentioned in the supplemental autopsy report dated May 20, 2012, "his office had no record of the Miller consult report having ever been released publically." Respondent Fajardo stated that the Miller Report was not subject to public disclosure because it was (1) "records of an investigation conducted or compiled by a law enforcement agency for law enforcement purposes;" (2) "records protected by federal and state law, including but not limited to, provisions of the evidence code relating to privilege and common law privilege;" and (3) "records where the facts of a particular case dictate that the public interest served by not disclosing the record clearly outweigh the public interest served by disclosure of the record. The exemptions cited by Respondent Fajardo are pre-textual, wholly without merit and baseless.

b. The Sheriff Request

On May 19, 2015, Petitioner sent a CPRA request to Respondent LASD (sometimes "Department") requesting a copy of the Department's file pertaining to the investigation of the death of Natalie Wood. The request included "any and all interview memorandums, statements, documents, photographs, and any other file materials relating to the investigation in your possession or control." Petitioner heard nothing and received nothing based on this request.

On July 2, 2015, Petitioner sent a second request.

On July 16, 2015, Petitioner received a response from Rod A. Kusch, Captain, Homicide Bureau of Respondent Department, stating that the "records requested are exempt from disclosure, based on but not limited to, the following authorities, California Constitution, Article I, Section I; Government Code § 6254(c)(f)(k) and 6255, as well as relevant case law."

On July 30, 2015, Petitioner responded to the Department's denial, and pointed out that at least three different sources had referred to interview reports from the Department. In addition, when the case was re-opened in 2011, representatives from the Department went to Hawaii to inspect a yacht and voluntarily posed for and commented to media regarding the investigation. As a result, Respondents McDonnell and the Sheriff's Department have waived any applicable CPRA exemptions by the public disclosure of the Natalie Wood file and the documents requested by Petitioner. Respondents McDonnell and Department ignored, failed, and refused to respond to Petitioner's CPRA request.

Respondents have violated the CPRA by failing to respond as required by law. In addition, Respondents have unjustifiably refused to disclose clearly disclosable documents without any legitimate basis.

2. Course of Proceedings

On August 9, 2016, the court ruled on Petitioner Perroni's motions to compel answers to interrogatories and to compel answers to deposition questions. Perroni additionally moved to on continue the trial date. The court denied all of Perroni's motions, holding that the discovery motions were procedurally defective as Perroni failed to provide a separate statement. Perroni was further seeking to discover material outside the scope of a CPRA case, and material protected by the investigation privilege. The motion to continue was denied as moot. Sanctions were awarded against Perroni in the amount of \$3,000. The court granted Respondents' motion to withdraw an admission.

On September 27, 2016, the court tentatively granted in part Perroni's Petition as to LASD and continued the hearing to November 10, 2016. On that date, the court adopted its tentative decision granting the Petition in part and denying it in part. Perroni prevailed with respect to (a) 241 documents and 32 photographs from LASD's 1981 archive files regarding Natalie Wood previously disclosed by LASD based on a theory of waiver and (b) after a review of LASD's archive files *in camera*, an additional disclosable document identified as "Reporting Districts Avalon Policing Area." The court also granted Perroni's Petition as to the Medical Examiner for the Miller Report record, making no ruling as to the other Coroner documents because the parties settled. The court noted Perroni prevailed under the CPRA.

The court heard and denied Perroni's motion for attorney's fees and entered "Judgment" on January 26, 2017.

Perroni appealed from the denial of an award of attorney's fees and also purported to appeal from the trial court's discovery orders. The court of appeal affirmed the trial court on December 13, 2017, holding that Perroni could not recover attorney's fees as a *pro se* lawyer and that the trial court's discovery orders were non-appealable collateral orders. In so ruling, the court noted that an order granting or denying a CPRA petition is reviewable only by extraordinary writ. Govt. Code §6259(c). Los Angeles Times v. Alameda Corridor Transportation Authority, (2001) 88 Cal.App.4th 1381, 1388.

According to proofs of service on file, LASD's counsel was served with the moving papers for the instant motion via overnight delivery on July 20,

2020.

B. Applicable Law

Every court shall have the power to compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in an action or proceeding pending therein. CCP §128(a)(4). This enforcement power is also an inherent power of the court. See Security Trust & Sav. Bank v. Southern Pac. R. Co., (1935) 6 Cal.App.2d 585, 588 (“It is a well-established principle of law that a court possesses power to enforce its judgments.”); Machado v. Myers, (2019) 39 Cal.App.5th 779, 796 n.13, 252 (“Trial courts have the inherent authority to enforce their rulings.”)

C. Statement of Facts

1. Petitioner’s Evidence^[3]

Perroni initiated the instant CPRA action in 2015, seeking from LASD and the Medical Examiner various records relating to the death of actress Natalie Wood. Perroni Decl., ¶2. Through the court’s order and through settlement, Perroni prevailed in the action, receiving some records that Respondents had failed to produce in response to his CPRA request. Perroni Decl., ¶3.

The instant motion regards a subset of the requested records: the LASD’s 1981 file that was disclosed to members of the public, particularly author Suzanne Finstad (“Finstad”). Perroni Decl., ¶4. The court has ruled that, because of CPRA waiver law, LASD must produce to Perroni whatever portions of the 1981 LACSD file to which Finstad (or any other member of the public) was given access. Perroni Decl., ¶5. As a result, LASD produced to Perroni certain portions of its file, but not the entire file. *Id.*

Perroni has consistently maintained that LASD waived its right to refuse disclosure of any portions of its 1981 file regarding the death of Natalie Wood that have been disclosed to Finstad or any other member of the public. Perroni Decl., ¶6. At the September 2016 hearing in this action, the court agreed with Perroni’s waiver argument, ruling that Perroni was entitled to production of whatever portions of the file to which a member of the public received access. Perroni Decl., ¶6, Ex. 1.

On November 10, 2016, the court entered its earlier, tentative decision on the various issues presented, including the waiver ruling. The court wrote that whenever a local agency discloses a public record which is otherwise exempt to any member of the public, this disclosure shall constitute a waiver of the exemptions specified in Govt. Code section 6254, 6254.7, or other similar provisions of law. Perroni Decl., ¶7, Exs. 2, 3.

To date, LASD has insisted that it only provided Finstad and Kashner with “access to portions of the 1981 files”, but not the entire file itself. Perroni Decl., ¶8, Ex. 4. On this basis, LASD produced to Perroni only specifically identified portions of its records. *Id.*

Based on Perroni’s November 8, 2016 deposition of Deputy Sheriff Ralph Hernandez (“Hernandez”), LASD’s insistence is not based on any records maintained by LASD or the firsthand knowledge of anyone in the Department, but rather on Deputy Hernandez’s recollection. Perroni Decl., ¶10, Ex. 5.

Finstad has since written regarding what records she received access to from LASD. Perroni Decl., ¶11. In March 2020, Finstad republished her book *Natasha* under the new title *Natalie Wood: The Complete Biography*. *Id.* Upon reading the new book pages, Perroni discovered that LASD had not fully complied with the court’s ruling. Perroni Decl., ¶12, Ex. 6, p.452. It is evident from other written accounts of Natalie Wood’s death that photographs of her remains exist and are part of the 1981 LACSD file. Perroni Decl., ¶15. Detective Rasure’s 22-page official report confirms he attended the autopsy and thereafter stated, “During the entire examination from beginning to end, numerous color photographs were taken of all abrasions, contusions and concerned vital organs by the Medical Examiner/ Coroner’s photographer. These photographs will also be obtained and made a part of this file.” *Id.*, Ex. 8.

In 2009, Marti Rulli and Dennis Davern published a book titled *Goodbye Natalie, Goodbye Splendour*. Perroni Decl., ¶16.

Finstad wrote that the LASD provided to her a "vintage pink 'While You Were Out' telephone note pad" message from Marilyn Wayne. Perroni Decl., ¶17. This record was not produced to Perroni. Perroni Decl., ¶17.

2. LASD’s Evidence

LASD closed its initial investigation into Natalie Wood’s death on December 11, 1981. Birenbaum Decl., Exs. 3, 4, pp. 45-46. Over the years after the initial Natalie Wood investigation file was closed, non-County persons – including Finstad – obtained access to portions of the 1981 LASD files, including the first complaint report from the 1981 investigation by LASD (Officer Kroll), the supplementary report from the 1981 investigation by LASD (Officer Rasure), photographs of the Splendour without photographs of Natalie Wood’s remains, telephone messages, and investigators’ notebooks. Birenbaum Decl., Ex. 3; Ex. 4, p.67; Ex. 5, p.7. LASD never provided non-County employees access to the autopsy photographs, or other photographs of Natalie Wood’s remains. Birenbaum Decl., Ex. 4, p.10.

Early in the litigation – March 2016 – LASD determined that items from the 1981 Investigation file had been released to the public (including Finstad), and so, under Govt. Code section 6254.5, should be released to Perroni: (a) the initial Sheriff’s Department report; (b) the supplementary report by the Homicide Bureau, investigators D. Rasure, R. Hamilton, and R. Morck; (c) photographs of the Splendour, the dinghy, and the scene (excluding photos of Natalie Woods’s remains); (d) paper telephone messages to the investigators; (e) the investigators’ notebooks; and (f) the autopsy report from the Medical

Examiner. Birenbaum Decl., Ex. 4, pp. 71-72, 73-79; Ex. 5, pp. 6-7. LASD released these items to Perroni. Perroni Decl., Ex. 3.

LASD and the Medical Examiner responded to written discovery. Birenbaum Decl., ¶8, Exs. 4, 5. Perroni and Respondents made and opposed discovery motions. *Id.* Perroni conducted several depositions of current and former LASD employees, including Detective Ralph Hernandez. *Id.*

Perroni first deposed Detective Hernandez on May 3, 2016. Birenbaum Decl., Ex. 4, p.1. During that deposition, Detective Hernandez testified that he believed that Finstad was provided access to the LASD Natalie Wood file while the file was inactive. *Id.* at p.67.

Perroni's Petition was heard on September 27, 2020. During the hearing, the court stated that Perroni had not met his burden of proving what documents had been provided to author Finstad. Birenbaum Decl., Ex. 1, pp. 5, 19, 24-25. The court noted that Finstad – the only person who would know what the LASD had provided to her – had not been deposed by Perroni. *Id.* The court permitted Perroni to depose Detective Hernandez a second time concerning his declaration submitted in support of the respondents' briefing. Birenbaum Decl., Ex. 1, pp. 49-50.

On November 8, 2016, Hernandez testified in his second deposition that he spoke with Finstad to determine the items she had been provided access to from the 1981 file. Birenbaum Decl., Ex. 5, pp. 8-9.

The court set a November 10, 2016 date for a continued hearing and an *in camera* review of LASD's 1981 file. *Id.* As part of its tentative, the court noted that Perroni had the burden to show waiver and he had not offered "credible evidence as to what precisely either author received." Mot. Ex. 3, p.11. After the *in camera* review, the court determined that there was a single document that LASD had failed to produce to Perroni – a map of Catalina. Birenbaum Decl., Ex. 2, p.10. The map was produced to Perroni at the conclusion of the hearing. *Id.* at p.15.

Detective Louis D. Danoff (Ret.) ("Danoff"), retired LASD detective, was the LASD employee responsible for managing LASD's library of unsolved homicides from 1991-March 2001. Danoff Decl., ¶¶ 2-3, 5, 12. Beginning in 1992, the library was housed in the old gym at the Biscailuz Center on Eastern Avenue, East Los Angeles, which was five miles from the Homicide Bureau's offices in an industrial complex on Rickenbacker Road, City of Commerce. Danoff Decl., ¶5.

During his time as an Unsolved Team Investigator, Danoff received calls from "authors" and had several extended conversations with authors regarding a case. Danoff Decl., ¶9. Danoff never showed these authors the case file. Nor did he provide any reports, murder books, or other items from the file. (The exception is that he has provided victim families with reports containing information for making arrangements for victims). *Id.*

Danoff would provide authors with LASD's procedure for viewing a case file: submit the request to the Sheriff's Information Bureau, which would forward the request to Homicide Bureau. The Homicide Bureau would either accept or reject the request. Danoff Decl., ¶10. Danoff recalls a few occasions during his tenure running the library when a Homicide Investigator was accompanied by a civilian to view a specific case. *Id.* Danoff also recalls two occasions where a male civilian with prior approval came to the library alone and spent several days going through a file. *Id.* On these occasions, the civilian was permitted to be present only while Danoff was present. Danoff's office was never made available for the civilian's use, and the civilians had to make do with the surroundings to find a place to do their work. *Id.*

Danoff has no recollection of ever speaking to or meeting Finstad. Danoff Decl., ¶14. He has no recollection of ever providing access to the library to a female author during his tenure as librarian. *Id.* Danoff never provided any author, with or without authorization, copies of reports, murder books, or any other items from a case file. *Id.*

There was no room at the library fitting Finstad's description of where she reviewed the Natalie Wood file. Danoff Decl., ¶13. While Danoff has spoken about the Natalie Wood case from a "hearsay standpoint", he never handled the case file "except possibly to put it on a shelf in the Library for storage." Danoff Decl., ¶13. Danoff never showed the Natalie Wood file, reports, murder books, or anything else from the file to anyone. *Id.*

D. Analysis

Perroni moves for an order directing the LASD to comply with the court's prior order of November 10, 2016, which held that Respondents were required disclose to Perroni any documents contained in a record if they had previously disclosed to another member of the public. Mot. at 10; Perroni Decl., Ex. 3. Perroni notes that the court stated at the September 27, 2016 hearing that if Finstad was given the Natalie Wood case file to look through, the whole file would have to be produced to Perroni. Perroni Decl., ¶6, Ex. 1, p. 34.

1. Jurisdiction

LASD argues that Perroni mischaracterizes his motion as seeking enforcement of the court's prior order or final judgment when he is actually requesting that the court reopen the case and reevaluate LASD's disclosure duty. Opp. at 11.

Perroni notes that LASD refused an offer to resolve the matter without judicial intervention, stating that a final judgment had already been entered. Mot. at 10-11. The court of appeal created a question as to whether a final judgment has been entered in the action, holding that an order granting or denying a CPRA petition cannot serve as a final judgment under CCP section 904.1(a)(1). *Perroni v. Fajardo*, ("Perroni") (Dec. 13, 2017) at 15-16. Perroni argues that it is immaterial whether a final judgment has been entered, as the court has statutory and inherent power to enforce both its own judgments and orders. CCP §128(a)(4); *See Security Trust & Sav. Bank V. Souther Pac. R. Co.*, (1935) 6 Cal.App.2d 585, 588; *Machado v. Myers*, (2019) 39 Cal.App.5th 779,

Perroni is correct that, pursuant to Govt. Code section 6259(c), an order granting or denying a CPRA petition is not a final judgment within the meaning of CCP section 904.1. This provision was included in the CPRA for the specific purpose of allowing an expedited review of a trial court's CPRA ruling. *See Los Angeles Times v. Alameda Corridor Transp. Auth.*, (2001) 88 Cal.App.4th 1381, 1386-87. In this case, the trial court entered a "Judgment". The appellate court corrected this ruling by noting that a trial court's CPRA ruling is an order reviewable only by extraordinary writ. Perroni at 15-16.

Perroni provides no authority for his claim that a trial court can reopen and review its ruling on a CPRA petition. As LASD argues, a trial court's re-visit of a CPRA order is at odds with the legislative intent of swift appellate review in Govt. Code section 6259(c). *Opp.* at 12. It is also inconsistent with the overall CPRA scheme, which permits a requester who fails to obtain the desired records from a CPRA request to make another request from the government agency. Hence, a request that is unduly narrow or inadvertently fails to include a desired document or a change in circumstances warranting additional records may be addressed by a new request, not modification of the trial court's order.

It is true, as Perroni argues, that a trial court retains jurisdiction to enforce its judgments and orders. CCP §128(a)(4). But LASD is correct that Perroni's motion does not seek to enforce the court's order, but rather to modify the order based on new evidence. The court's Judgment – which was consistent with the November 10, 2016 decision -- granted the Petition by stating that Perroni had prevailed with respect to (a) obtaining 241 documents and 32 photographs from LASD's 1981 archive files regarding Natalie Wood and (b) an additional disclosable document identified as "Reporting Districts Avalon Policing Area" after *in camera* review.

The Judgment stated that these specific documents were subject to disclosure based on a legal theory of waiver as Perroni points out (*Mot.* at 2-3), but the court did not order LASD to produce all documents from the Natalie Wood case file that had been disclosed to another party; it ordered disclosure of specific documents. Perroni's motion seeks to enforce the court's order on the waiver theory basis, claiming that new evidence shows that a broader disclosure is required. This argument is not within the court's CPRA jurisdiction.

2. Sufficiency of Perroni's Evidence

Even if *arguendo* the court has jurisdiction, Perroni has not presented sufficient evidence to compel further production on a waiver theory.

Perroni asserts that, contrary to the LASD's representations, his evidence establishes that he was not given every document provided to Finstad. *Mot.* at 10. He acknowledges that Deputy Hernandez previously stated that the Department only gave the public, including Finstad, access of portions of the 1981 files to the public. Perroni Decl., ¶¶ 8-9, Ex. 4. Yet, Hernandez's deposition testimony established that his knowledge of what was disclosed to Finstad was based solely on the access Finstad told him she had been given, not on any documentation or records of the disclosure. *Reply* at 2; Perroni Decl., Ex. 5.

Perroni contends (*Mot.* at 10) that passages from Finstad's new book demonstrate that she was given access to more records those Hernandez identified. However, the court has sustained LASD's objections to those passages as hearsay. Perroni has no declaration or deposition testimony from Finstad to offer.^[4]

Perroni also asserts that other written accounts show that the LASD possesses photographs of Natalie Wood's remains which were not provided to him. Perroni Decl., ¶15, Exs. 8, 9. The accounts from Rulli and Davern's book are hearsay to which LASD's objection was sustained. Moreover, Perroni does not provide any evidence that LASD disclosed these photographs to any member of the public. LASD's evidence is emphatic that it never disclosed the photographs of the deceased Natalie Wood – which are obviously sensitive in nature -- to any member of the public. Perroni Decl., Ex. 4, ¶7; Birenbaum Decl., Ex. 4, p.10. Given the sensational nature of the case, one would expect these photographs to appear on the internet or in a book if they had been publicly disclosed. Additionally, the Rulli/Davern book was published prior to Perroni's Petition and cannot be relied upon by Perroni as new evidence.

Perroni also argues that the Rules of Evidence do not apply to CPRA litigation and the court should disregard LASD's hearsay argument. *Reply* at 1, n.1. Perroni cites no law to support this position. Perroni is confusing the parties' roles in CPRA requests to the mandamus action required to compel CPRA disclosure. While the CPRA statutory scheme is somewhat unique, the Rules of Evidence apply to all civil trials, including all mandamus trials.

LASD also calls into question the veracity of Finstad's account. Finstad clearly was not precise because her book refers to Danoff as an LAPD detective when in fact he was a LASD deputy sheriff. Perroni Decl., Ex. 6, p.458; Danoff Decl., ¶2.

Danoff's declaration contradicts Finstad's hearsay account. Finstad describes meeting Danoff at a LASD office on the "outskirts" of downtown in a room as having a long table and many chairs (Perroni Decl., Ex. 6 at p. 459), but LASD's library, where the Natalie Wood file is maintained, contained no such room. Danoff Decl., ¶¶ 6, 11, 13. Contrary to Finstad's statement in her book that she met with him, Danoff does not recall speaking to or meeting with Finstad or with any other female author. Danoff Decl., ¶¶ 10, 13, 14. Danoff never provided the Natalie Wood file to anyone. Danoff Decl., ¶13. Danoff was required to follow a procedure before allowing civilians access to files. Danoff Decl., ¶¶ 10, 14. He could not – as described by Finstad – simply hand the file to her and leave her in a room. *Id.* ¶¶ 9, 10. While Danoff spoke with authors during his time as a LASD librarian, he never showed these authors a case file or murder book. Danoff Decl., ¶10. Danoff recalled only two occasions where civilians had permission to come to the library alone. Both of those persons were male, both could only be in the room with Danoff present, and both had to work in the library. Danoff Decl., ¶10.

LASD also persuasively argues that Finstad's book does not establish that she received a telephone note pad message from Marilyn Wayne. *Opp.* at 17. Finstad only describes the message as having a "return telephone number and a brief message for investigators from Marilyn Wayne"; the Finstad book

does not say the message included the name “Marilyn Wayne.” Birenbaum Decl., Ex. 3, p.462. Perroni also provides no evidence that this telephone message was not produced to him. Similarly, Finstad’s book does not state that she received a statement of Vidal Herrera. Her book only states that Detective Hernandez told Finstad that he had taken Herrera’s sworn statement. Perroni Decl., Ex. 6, p.462.

Perroni has not established that LASD failed to produce to him documents it previously provided to Finstad or any other member of the public.[5]

-

D. Conclusion

The motion to enforce the court’s CPRA order is denied.

[1] Petitioner’s motion is made against “Respondents”, which include Mark A. Fajardo, M.D., in his capacity as Chief Medical Examiner-Coroner, the Los Angeles County Department of Medical Examiner-Coroner (collectively the “Medical Examiner”), and Jim McDonnell, in his official capacity as Sheriff. However, Perroni settled with the Medical Examiner, Jim McDonnell is no longer Sheriff, and the body of the motion is against LASD.

[2] Respondent LASD untimely filed its opposition brief on August 25, 2020, five court days before the September 1, 2020 hearing. As the attached proof of service indicates it was timely served on August 19, 2020, the court exercises its discretion to consider the late-filed brief.

[3] The Perroni declaration fails to state the location where it was executed and therefore does not conform to CCP section 2015.5. The Department does not object to this failure.

[4] Perroni makes a conclusory argument that the Evid. Code section 1341 exception for publications of facts in historical works and books of science or art would apply to Finstad’s updated book. Reply at 2. LASD rebuts any application of section 1341, which requires public facts from a book of standard authority that is practically subject to judicial notice. See Deutsch v. Masonic Homes of Cal., Inc. (2008) 164 Cal.App.4th 748, 767. Opp. at 14. Finstad’s book hardly meets this description.

[5] In reply, Perroni requests that if the court is not inclined to grant the motion, it should hold it in abeyance and permit the parties leave to depose Finstad. Reply at 3. Perroni fails to provide any authority that the court has jurisdiction to do so and the court declines.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 85

BS159430

SAMUEL A PERRONI VS MARK A FAJARDO ET AL

September 1, 2020

1:30 PM

Judge: Honorable James C. Chalfant

Judicial Assistant: J. De Luna

Courtroom Assistant: C. Del Rio

CSR: D. Van Dyke, CSR # 10795

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Petitioner(s): Samuel A. Perroni By: Garrett Llewellyn (Video); Brandon Cate (Video);
Vince Chadick (Video)

For Respondent(s): Daniel P. Barber, Esq. (Video); Anna Birenbaum (Video)

NATURE OF PROCEEDINGS: Hearing on Motion for Enforcement of the Court's Prior Order or, in the Alternative, for Enforcement of The Court's Final Judgment;

The court's tentative ruling is published to all parties via posting on the court's website.

The matter is called for hearing.

After argument of counsel, the court rules in accordance with its tentative ruling which is filed and adopted as the final ruling of the court.

Petitioner Samuel A. Perroni moves for an order directing Respondent Los Angeles County Sheriff's Department to comply with the court's prior ruling in this action, or in the alternative, for an order enforcing the court's final judgment.

The court has read and considered the moving papers, opposition, and reply, and renders the following decision:

The motion to enforce the court's CPRA order is denied.

Respondent to give notice.

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 11500 West Olympic Boulevard, Suite 400, Los Angeles, California 90064-1839.

On **September 2, 2020**, I served the foregoing document described as NOTICE OF ENTRY OF ORDER DENYING MOTION FOR ENFORCEMENT OF COURT'S PRIOR ORDER on the interested parties in this action by placing [] the original [X] a true copy thereof enclosed in sealed envelopes addressed as follows:

GARRETT S. LLEWELLYN garrett.llewellyn@btlaw.com BARNES & THORNBURG LLP 2029 Century Park East Suite 300 Los Angeles, CA 90067 Telephone: (310) 284-3880 Facsimile: (310) 284-3894	BRANDON B. CATE bcate@qgtlaw.com Vincent O. Chaddick vchadick@qgtlaw.com QUATTLEBAUM, GROOMS & TULL PLLC 4100 Corporate Center Drive Suite 310 Springdale, Arkansas 72762 Telephone: (479) 444-5205 Facsimile: (479) 444-5255
Attorneys for Petitioner Samuel A. Perroni	Counsel Pro Hac Vice

[X] (BY ELECTRONIC TRANSMISSION) By electronic service pursuant to the Executive Order issued March 27, 2020 by the Executive Department, State of California, authorizing Courts to take certain actions in response to the COVID-19 pandemic, including suspending Code of Civil Procedure section 1010.6(b-d).

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

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

Executed on **September 2, 2020**, at Los Angeles, California.

/s/ Jennifer Sturwold

Jennifer Sturwold