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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

SAMUEL A. PERRONI,)
)
Petitioner)
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)
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vs.)
)
)
)
MARK A. FAJARDO,)
M.D., IN HIS OFFICIAL)
CAPACITY AS CHIEF MEDICAL)
EXAMINER-CORONER; LOS)
ANGELES COUNTY)
DEPARTMENT OF MEDICAL)
EXAMINER-CORONER; JIM)
McDONNELL, IN HIS OFFICIAL)
CAPACITY AS SHERIFF; AND)
THE COUNTY OF LOS ANGELES)
SHERIFF'S DEPARTMENT)
)
Respondents.)
)
)
_____)

Case No. BS 159430
*(Assigned for All Purposes to the
Honorable James C. Chalfant, Dept. 85)*

**PETITIONER'S REBUTTAL TRIAL
BRIEF WITH DECLARATIONS OF
PAMELA K. EAKER AND SAMUEL
A. PERRONI**

**TRIAL DATE: SEPT. 13, 2016
TIME: 1:30 P.M.
DEPT. 85
JUDGE JAMES C. CHALFANT**

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**NOTE: For this Rebuttal Brief, references to Petitioner’s Opening Trial Brief Appendix will be abbreviated “POB App.,” references to Respondents’ Trial Brief will be abbreviated “RTB;” and references to Respondents’ Opposition to Petitioner’s Motion to Compel Deposition Testimony will be abbreviated “ROMCDT.”

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I. INTRODUCTION

Respondents' current principle defenses are: (1) Gov. Code § 6254, subdivision (f) ("records of investigations" v. "investigatory files"); (2) §6254, subdivision (k) (Evidence Code § 1040); (3) Code of Civ. Pro. § 129 and (4) privacy (because "privacy concerns of family members concerning post-mortem photos of a deceased loved one come into play.") (*RTB*, pp. 7,8,9,12). CPRA exemptions are to be construed narrowly and the burden of proof is on Respondents. *City of Los Angeles v. Superior Court (Axelrad)*, (2000) 82 Cal. App. 4th 819.

II. DISCUSSION

Respondents have conceded that the requested records and files are public records and conceded waiver by public disclosure of materials contained in both the LACSD and Coroner's files. (*RTB*, 2.4 & 2.5; *Hernandez and Winter Dec.* ¶ 6-7 & 7, respectively). But, they insist the remaining items are exempt. (*RTB*, pp. 4.2.2.).

A. WAIVER BY FAILING TO COMPLY WITH THE CPRA MANDATES

Petitioner stands on his opening brief on this point.

B. MILLER REPORT WAIVER AND "OTHER ITEMS" DISCLOSURE

Pre-Petition, Respondent Fajardo, through Mr. Lev Levon, the Coroner's Chief of Public Services, conceded in a letter to Petitioner dated August 5, 2015 that "Coroner investigator narratives" were disclosable. (*POB*, App. 44). Later, Respondent Fajardo himself said that Paul Miller was a Deputy Medical Examiner. (*POB*, App. 49). Finally, Dr. Noguchi, who left the Coroner's office in 1982, testified that what he said in his 1983 *memoir* was true, that he did not want to change it and he stood behind it. (*Noguchi Depo.*, pp. 26, Exh. "1"). In that *memoir*, he says he asked Miller, "a deputy on the staff of the (LACME's) Office" and "chief consultant on ocean accidents," for a "special investigative report." He went on to refer to and quote from that

report. (*POB, App. 238, 240, 242, 245, 247*). Furthermore, Respondents have conceded that Paul Miller was a Coroner consultant and **stipulated** that Dr. Noguchi “used” the Miller Report “to write his (1983) *memoir* chapter” on Natalie Wood’s autopsy. (*POB, App. 44, 49, 62, 235-236*). As a consequence, the Paul Miller report was an “investigator narrative” and is just as disclosable as the Eaker investigator narrative that the Coroner agrees is disclosable and was in fact made public. (*Eaker Dec., Exh. “2” hereto; Perroni Dec., Exh. “3” hereto*).

There is no way to reconcile why “investigator narratives” like Eaker’s are disclosable and the Miller investigation report is not and Respondents have not carried their burden to prove it was “information **communicated** in confidence” where there is a “necessity for preserving [its] confidentiality.” (Emphasis added.) See, *Evid. Code § 1040*. It seems that Respondent Fajardo believes all the Coroner has to do is label something as “confidential” to get a pass from the CPRA. (*Winter Dec., ¶ 5 & 6*). Of course, Respondents offered no evidence why a Coroner’s office confidentiality tag would exempt a record from disclosure and labeling it as such does make it so under § 1040. See, for example, *Uribe v. Howie, (1971) 19 Cal. App. 3d 194; Haynie, infra, 1069* (“It is not enough that an agency label a file ‘investigatory’” ... to “shield it from public disclosure...” and *Haynie, infra.*). Furthermore, the overwhelming evidence is that Noguchi had the Miller Report in 1983 when he was a member of the public and Paul Miller was given a copy of the report by the Coroner in 2012, when he was a member of the public. (*POB, App. 73,79,236,246*). Therefore, it has been waived pursuant to § 6254.5.

With respect to the Coroner’s files, Respondents have offered the declaration of Edward Winter. Mr. Winter claims that he “reviewed” the Coroner’s Office Natalie Wood files, both a paper file as well as a portion of a stored microfilm file, and says, “Within its files, the Coroner Department includes information concerning the persons to whom materials from the file **are**

released and the documents that have been released.” (*Winter Dec.*, ¶ 3). If the release was public, that information is CPRA disclosable. A demand for production has been made. (*Perroni Dec.*, *Exh. 3*). Winter also says:

... the file indicates that the Miller document has not been provided to anyone outside of the Coroner’s Office, the Sheriff’s Department, and the County Attorneys from the time that it was prepared to the present. (*Winter Dec.*, ¶ 5).

That statement is false. The Miller Report was given to Miller in 2012 and was in the possession of Noguchi in 1983. (*POB, App. 73,79,236,246*). Of course, when Petitioner asked Det. Hernandez to confirm whether Mr. Miller, who was not employed by the County at the time, left the 2012 meeting with the report he refused to answer, claiming a § 1040 privilege. (*Hernandez Depo.*, pp. 16-17, 22, *Exh. 4*). Winter also states:

Based upon my review of the Coroner Department file.... I also determined that in addition to the Paul Miller document, there are, “confidential items” within the Coroner’s microfilm file that have not been released to any individuals. (*Winter Dec.*, ¶ 6).

No evidence has been presented by Respondents to demonstrate how and why the other unidentified “items” are “confidential” and how that makes them exempt. Moreover, Winter states “narrative reports” have been “produced” to Petitioner, but that statement is also false. No one in the Coroner’s Office has provided Petitioner with any investigator narrative reports. Petitioner obtained the Eaker narrative report off of the internet. (*Perroni Dec. Exh. 3*).

Dr. Noguchi obtained the Miller Report - like Eaker’s report – to assist him in the preparation of the autopsy report which Respondents admit was disclosed to the public. (*Winter Dec.*, ¶ 7). The Miller Report wasn’t treated as confidential information in Dr. Noguchi’s *memoir*. (*POB, App. 235-247*). In fact, Dr. Noguchi not only made it public, he sold it to the public for fame, notoriety and, of course, money.

C. SECTION 6254 (f) EXEMPTION

The files of the LACSD and Coroner of a celebrity death were opened on November 29, 1981 as an accident (*POB, App. 215; Eaker Dec., Exh. 2*) and were closed twelve (12) days later as an accident - “**Person Dead, Accidental Drowning.**” (*POB, App. 183, 190-191, 214; Hernandez Depo., p. 45-46, Exh. 4; Noguchi Depo., 23, 32-33, Exh. 1*). Natalie Wood’s death was never investigated in 1981 as a homicide, much less the crimes of murder, manslaughter, negligent homicide or assault. Dr. Noguchi testified that before his autopsy report was prepared, there was no indication from the LACSD that Natalie Wood’s death was the result of “foul play” and he found “no murder.” (*POB, App. 214-215; Eaker Dec., Exh. 2; Noguchi Depo.p. 31-32, Exh. 1*). That is why the original and supplemental autopsy reports were made public. Otherwise, they would be subject to the rule in *Dixon v. Superior Court, (2009) 170 Cal. App. 4th 1271, 88 Cal. Rptr. 3d 847* (exemption applies “only when the prospect of enforcement proceedings [becomes] concrete and definite.”).

Respondents have told this Court that “[t]he **determining factor** for [a 6254, subdivision (f)] “investigation records” exemption) is “whether the investigation was to determine whether a **crime was committed** and if so, how.... (*Haynie v. Superior Court (2001) 26 Cal. 4th 1061, 1070-71.*)” (Emphasis added). (*ROMCDT, p. 10; RTB, p. 10*).

Haynie is not this case. The facts of that case show it began with a citizen complaint to report a “possible crime and the [police] department’s response thereto.” That did not happen in this case. The LACSD file started with Deputy Kroll as an accident drowning of a celebrity and the Coroner file started with a call of an accidental drowning of a celebrity. (*POB, App. 215; Eaker Dec., Exh. 2*). *Haynie* began as a pre-litigation discovery tool by the actual suspect of the crime and the Supreme Court specifically said it had no reason to believe the deputies who

stopped Haynie “were not investigating a report of what they believed might be **criminal conduct**. (See, *e.g.*, Pen. Code, § 12031 (the crime of carrying a concealed weapon)).” *Id.*, 1070. In this case, there is no suspect or evidence anyone involved believed there might be criminal conduct in 1981 or when the case was reactivated in 2011. In *Haynie*, the CPRA request was made eleven (11) days after the criminal complaint. In this case, the CPRA request was made 34 years after Natalie Wood’s death and over four (4) years after the case was “reactivated.”

In order to reconcile the *Haynie* passages relied upon by Respondents with the holdings and findings above, they must have their foundation in the existence of a “report of a possible crime” and the investigation of a law enforcement agency into what they believed was “criminal conduct.” The Respondents want this Court to assume that by saying “whether a violation of the law had occurred.” That is insufficient to conclude what Petitioner seeks is “investigatory records” and automatically exempt in this case. The proof of that is the *Haynie* Court statements that “[i]t is not enough that an agency label its file ‘investigatory’ and suggest that enforcement proceedings may be initiated at some unspecified future date or were previously considered.... To say that the exemption created by subdivision (f) is applicable to any document which a public agency might, under any circumstance, use in the course of [an investigation] would be to create a virtual *carte blanche* for the denial of public access to public records. The exception would thus swallow the rule.” *Haynie*, 1069. Finally, the *Haynie* Court said “we do not mean to shield everything law enforcement officers do from disclosure” and limited the holding to “[r]ecords relating to that [Haynie] investigation....” *Id.*, 1071.

An accident case of a celebrity was “reactivated” on November 18, 2011 and Respondents have presented no evidence that there has been a **criminal** investigation since.

(*POB, App. 294, 348*). Det. Hernandez's Declaration was a lame attempt by Respondents to shore up this glaring deficiency and it lacks substance and credibility. Det. Hernandez said:

All of the Sheriff's Department's 1981 and 2011 files are a part of the ongoing investigation in the Natalie Wood matter, and the Department's investigation into whether a violation of law **had** occurred and, if so, the circumstances of its commission as to the death of Natalie Wood. (Emphasis Added). *Hernandez Dec.*, ¶ 5.

The specific use of the word "had" is telling, indeed. Petitioner submits that this sworn statement confirms what Petitioner proved in his opening trial brief, *i.e.*, that a celebrity case was "reactivated" because of curiosity. (*POB, App. 281*). In fact, there is no mention of "criminal" or "crime" anywhere in Det. Hernandez declaration.

Det. Hernandez states further:

I have determined that access to portions of the 1981 files have been provided to persons, including Suzanne Finstad and Sam Kashner. (provides list). I was able to determine that the persons who were provided access to the Sheriff's Department 1981 files were provided access to the following items: *** from the 1981 file, no access to autopsy photographs, photographs of Wood's remains or to a document prepared by Paul Miller was ever provided to anyone in the general public **by the Los Angeles County Sheriff's Department**. (Emphasis Added). *Hernandez Dec.*, ¶ 6-7.

In Det. Hernandez's sworn deposition taken in May of 2016, Det. Hernandez admitted to talking to Suzanne Finstad in 2016 (before his deposition), but refused to say what they talked about. *Hernandez Depo.*, pp. 53-54, *Exh. 4*). Furthermore, Det. Hernandez testified that he didn't know what was sent to Suzanne Finstad in the 2003 fax (*POB, App. 151; Hernandez Depo.*, p. 57, *Exh. 4*). Petitioner then struggled through five (5) pages of deposition testimony to determine what was given to Suzanne Finstad, as well as to the public, and Hernandez ended the inquiry by testifying under oath that "they won't give me the files," that he "couldn't tell [Petitioner] who allowed Suzanne Finstad access to the file" and he "couldn't tell [Petitioner] if it was [Suzanne

Finstad] that was given access.” (*Hernandez Depo.*, pp. 62-67, *Exh. 4*). In addition, Det. Hernandez admitted to an oral conversation with author Marti Rulli where Rulli was given information from the files, but he testified he didn’t “recall” what or if it was information “gathered since November 18, 2011.” (*Hernandez Depo.*, pp. 59-60, *Exh. 4*). Finally, Det. Hernandez refused to answer a question whether he knew of anyone else in the LACSD who gave Marti Rulli any information out of the files. (*Hernandez Depo.*, p. 69, *Exh. 4*). Finally, Det. Hernandez’s supervisor, Lt. Corina, told the public in 2011 that the LACSD “pulled” a reactivated accident case “off the shelf” to see if it was “worth looking at.” (*POB, App. 281*).

Det. Hernandez’s inconsistent Declaration falls woefully short of establishing the determining factor of a **criminal** investigation conducted by a police agency for law enforcement purposes as the § 6254, subdivision (f) exemption has been addressed by the California courts. As previously stated, Det. Hernandez does not mention the word “crime” or “criminal” anywhere in his declaration.

Respondents make much of Dr. Noguchi’s testimony that every autopsy was approached with murder in mind. (*RTB, p. 1*). But, Petitioner asked the question of Dr. Noguchi for a reason. By the time the public records that are the subject of this action were created by the Coroner, they were not prepared for **criminal** investigatory purposes (they were prepared to document a celebrity accident autopsy) and there was not a “concrete and definite prospect of criminal law enforcement proceedings.” See, *Dixon, supra.*; *Noguchi Depo. p. 31, Exh. 1*).

Before the November 11, 2011 reactivation, there is zero evidence that “criminal conduct” or even a suspected crime, was being investigated. It was, in fact, an inquiry into the drowning of a famous celebrity. The requirement of placing the exemption qualification on materials (like the 1981 Natalie Wood files) of “only when the prospect of enforcement

proceedings [becomes] concrete and definite” is to prevent agencies from attempting to “shield a record from public disclosure, *regardless of its nature*, simply by placing it in a file labelled ‘investigatory.’” *Haynie v. Superior Court*, (2001) 26 Cal. 4th 1061, 1069, 31 P. 3d 760 citing *Williams v. Superior Court*, (1993) 5 Cal. 4th 337, 355-356, 19 Cal. Rptr. 2d 882, 852 P. 2d 377. After 30 years, the only crimes the LACSD could have been investigating in 1981 were murder, manslaughter, negligent homicide, or some type of criminal assault. Since all of those crimes, except murder, were long ago barred by the statute of limitations, *Penal Code* §§ 779 – 804; *People v. Morgan*, (1978) 75 Cal. App. 3d 3, they would have to be investigating a murder. If Respondents were truthful with this Court, and if they honestly believed § 6254(f) applicable, they would have stated that when they reactivated the case, they were investigating a murder. It has now been five (5) years and Respondents have provided no evidence they were investigating a homicide, much less murder, or that, if they were, there was a reasonable probability it would be pursued after 35 years. *County of Orange v. Superior Court* (2000) 79 Cal. App. 4th 759, 768.

D. SECTION 6254.5 WAIVER ON LACSD 1981 FILES

Suzanne Finstad was given something from the Natalie Wood LACSD file before her book was published in 2001 and after her book was published in 2003. Moreover, Sam Kashner was apparently given access to the 1981 LACSD file and Det. Hernandez gave Marti Rulli information from the files. (*RTB*, 4.3.1-4.3.4, *Hernandez Dec.*, ¶ 6&7; *Hernandez Depo.*, p. 58-59, *Exh. 4*). There is no credible evidence as to what it was – particularly the Finstad disclosure in 2003. (*POB App. 151*). But, the logical inference is that, at least for the 2003 Finstad disclosure, it was something that has not been disclosed to Petitioner. It could have been the Miller Report or copies of photographs or any of the other 1981 records not disclosed to Petitioner. But, in considering and weighing this, the Court must resolve the doubts in favor of

disclosure. *Unified School Dist. v. Superior Court*, (2014) 228 Cal. App. 4th 222, 175 Cal. Rptr. 3d 90.

Respondents all but concede that more is required of them to prove the applicability of Gov. Code §6254, subdivision (f) than pronounce there is “an open and active investigation” of Natalie Wood’s death. (*RTB*, p. 8,9-10). But, to get there, Respondents falsely claim that Det. Hernandez stated in his declaration that there is an ongoing investigation into a “crime.” (*RTB*, p. 8, line 12, p. 9, lines 1-2, 28, p. 10, line 1). The words “investigation of a crime” have not passed Det. Hernandez’s lips in this case. The words “investigation of a crime” can be found nowhere in Respondents’ sworn evidence before this Court. The only credible evidence about the nature of the investigation comes from a “truthful” public statement by the Chief of Detectives, William McSweeney. He told the world in 2012, after consulting with Hernandez’ supervisors, that after several weeks of looking at the Natalie Wood death case there was no evidence to suggest a homicide and no reason to change the conclusion of accidental death. (*POB*, App. 360-362). Notably, this has not been contradicted by Respondents, yet, here we are, nearly five (5) years after Chief McSweeney’s statements, and Respondents want this Court to find, without evidence, that things have changed.

E. BALANCING TEST; C.C.P. § 129 AND PRIVACY

Respondents are simply mistaken when they assert that “no balancing test is required,” when they rely on exemptions pursuant to Gov. Code §6254, subdivisions (f) and (k) (Evidence Code § 1040) and privacy. (*RTB*, p. 10, line 27). It is the hallmark of those CPRA exemptions. What Petitioner seeks, assuming § 6254 (f) applies, that has not been disclosed, must be classified as investigatory file records. As such, to deny disclosure the Court must find “a concrete and definite prospect of criminal law enforcement proceedings” and then balance the


public interests. *Shepard v. Superior Court*, (1976) 17 Cal. 3d 107, 125-126, 130 Cal. Rptr. 257 (balancing with respect to “each” item). Under Evidence Code § 1040, the statute itself requires balancing of necessities of preserving confidentiality. And, privacy interests are always balanced. *Hill v. Natl. Collegiate Ath.*, (1994) 7 Cal. 4th 1, 37, 40, 26 Cal. Rptr. 2d 834.

C. C. P. § 129 is not applicable to this case and Respondents have failed to prove a privacy issue or any of the other exemptions they rely upon.

III. COSTS AND FEES/CONCLUSION

Under California law, Petitioner has already prevailed in this case because his Petition resulted in the release of hundreds of disclosable records. *Pacific Merchant Shipping Assn. v. Bd. of Pilot Comm.*, (2015) 242 Ca. App. 4th 1043, 195 Ca. Rptr. 3d 358 (even if results in less; no order of disclosure or documents lost). After a final order in this case, Petitioner will file a motion for costs and fees pursuant to Gov. Code § 6259(d). Petitioner has also demonstrated without a doubt that Respondents improperly withheld records from him that were disclosable pursuant to CPRA. As a consequence, Petitioner respectfully requests that this Court order an *in camera* review of all materials that Respondents have failed to disclose and thereafter order that they be disclosed to Petitioner either in whole, or in part.

Dated: August 16, 2016



Samuel A. Perroni
Petitioner *Pro Se*

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

On August 16, 2016, I served the foregoing document on the interested parties in this action by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

Daniel P. Barer
Pollak, Vida & Fisher
11150 W. Olympic Blvd, Suite 980
Los Angeles, CA 90064-1839

Anna L. Birenbaum
Pollak, Vida & Fisher
11150 W. Olympic Blvd, Suite 980
Los Angeles, CA 90064-1839

(BY MAIL) I deposited such envelopes in the mail at Little Rock, Arkansas. 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 Little Rock, Arkansas in the ordinary course of business.

(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addresses above.

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

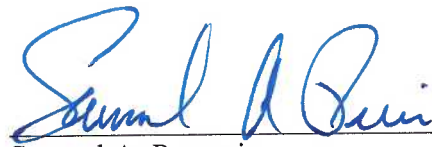
(BY EMAIL) With the permission of the above-identified addressees, I transmitted the attached document via the email addresses provided.

(BY FACSIMILE) At the time indicated on the transmission report from fax phone 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.

(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 August 16, 2016, at North Little Rock, Arkansas.



Samuel A. Perroni

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

SAMUEL A. PERRONI,)
)
Petitioner,)
)
vs.)
)
MARK A. FAJARDO, M.D. IN HIS)
OFFICIAL CAPACITY AS CHIEF MEDICAL)
EXAMINER-CORONER; LOS ANGELES)
COUNTY DEPARTMENT OF MEDICAL)
EXAMINER-CORONER; JIM MCDONNELL,)
IN HIS OFFICIAL CAPACTY AS)
SHERIFF, AND THE COUNTY OF LOS)
ANGELES SHERIFF'S DEPARTMENT,)
)
Respondents.)

SUPERIOR COURT
CASE NO. BS159430

ORIGINAL

DEPOSITION OF THOMAS NOGUCHI

WEDNESDAY, JUNE 1, 2016

2:01 P.M.

Reported by Maria Beesley, CSR 9132

Job No. 128598



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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

SAMUEL A. PERRONI,)	
)	
Petitioner,)	
)	SUPERIOR COURT
)	CASE NO. BS159430
)	
MARK A. FAJARDO, M.D. IN HIS)	
OFFICIAL CAPACITY AS CHIEF MEDICAL)	
EXAMINER-CORONER; LOS ANGELES)	
COUNTY DEPARTMENT OF MEDICAL)	
EXAMINER-CORONER; JIM MCDONNELL,)	
IN HIS OFFICIAL CAPACTY AS)	
SHERIFF, AND THE COUNTY OF LOS)	
ANGELES SHERIFF'S DEPARTMENT,,)	
)	
Respondents.)	
)	

DEPOSITION OF Thomas Noguchi taken at 11150 W.
Olympic Blvd., Suite 980, Los Angeles, California, on
June 1, 2016, at 2:01 p.m.before Maria Beesley,
Certified Shorthand Reporter, in and for the State of
California.

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APPEARANCES OF COUNSEL:

For Petitioner:

SAMUEL A. PERRONI, P.A.
BY: SAMUEL A. PERRONI, ESQ.
424 West 4th Street, Suite A
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501.374.2818

For Respondent:

POLLAK, VIDA & FI
BY: ANNA BIRENBAUM, AAL
11150 W. Olympic Blvd, Suite 980
Los Angeles, California 90064
310.551.3400

1 have him do so. But as it stands, your question is
2 objectionable.

3 BY MR. PERRONI:

4 Q. You need to answer. Here's the question: In
5 Exhibit 3, it's right in front of you, okay, at the very
6 top, Dr. L changed your cause of death to drowning and
7 other undetermined factors. My question to you is, did
8 you agree with that?

9 A. Well --

10 MS. BIRENBAUM: Objection. Asked and
11 answered.

12 THE WITNESS: It's not my position to
13 oppose this -- any subsequent investigation done. I was
14 not there. So I have no opinion.

15 BY MR. PERRONI:

16 Q. One way or the other?

17 MS. BIRENBAUM: Asked and answered.

18 THE WITNESS: No opinion.

19 BY MR. PERRONI:

20 Q. Now, in 1981, when you were chief medical
21 examiner, you closed the Natalie Wood autopsy as an
22 accidental death; correct?

23 A. Yes.

24 Q. Now, Dr. L, in May of 2012, changed it to
25 undetermined. Are you aware of that?

1 one. I have your book here so you can see it. Medical
2 examiner's case number 81-15167. Correct?

3 A. Yes.

4 Q. Did you at the time remember that case number
5 or did you have a document to help you?

6 A. I have a collaborator, his name is Joseph
7 Dimona, who had done research and prepared this
8 manuscript.

9 Q. And Dr. George Dimona, did he have any
10 documents or records from the Natalie Wood autopsy file?

11 MS. BIRENBAUM: Objection. Misstates
12 testimony.

13 THE WITNESS: I don't know.

14 BY MR. PERRONI:

15 Q. You don't know?

16 A. Well --

17 MS. BIRENBAUM: Asked and answered.

18 BY MR. PERRONI:

19 Q. You don't know?

20 A. No.

21 Q. Now, this book came out under your name;
22 correct?

23 A. Two names.

24 Q. Yeah. But you read it before it was
25 published?

1 MS. BIRENBAUM: Assumes facts not in
2 evidence.

3 BY MR. PERRONI:

4 Q. Correct or not?

5 A. Yes. Yes, I read that.

6 Q. And you read the chapter on Natalie Wood;
7 correct?

8 A. Yes.

9 Q. And you had a hand in how it was written;
10 right?

11 A. Yes.

12 Q. Okay. Did you write anything in there that
13 was false?

14 A. No, I don't think so.

15 Q. So everything you wrote in there was truthful
16 to the best of your knowledge and belief?

17 A. At that time, yes.

18 Q. Based upon what you knew?

19 A. Yes.

20 Q. Okay. Is there anything you want to correct
21 in that chapter now?

22 A. No.

23 Q. So you stand by everything you wrote?

24 A. Since I don't know any other information. So
25 certainly the writeup in 1983 still stands.

1 A. No, I don't remember. I don't think so.

2 Q. Now, you have told me you have known Paul
3 Miller for a long, long time. Did you know him before
4 November 29, 1981?

5 A. Yes.

6 Q. And how did you come to know him?

7 A. I was a student of his sailing academy, and I
8 took his course and joined some of his sailing events.

9 Q. Now, on page 22 of your book, if you look at
10 22, it says in here that the police did not suspect foul
11 play in Natalie Wood's death when your autopsy was
12 performed; correct?

13 A. That's what it says.

14 Q. Okay. And as far as you know that's true?

15 A. At this moment I don't know.

16 Q. But when you wrote it, as far as you knew it
17 was true?

18 A. That was my impression, yeah.

19 Q. Now, on page 23 of your book, turn over to
20 page 23, you state, "In any case of unusual death, it is
21 a first duty of medical examiners to suspect murder.
22 Indeed, some authorities on forensic science argue that
23 the search for murder is our only real mission and that
24 anything else we accomplish is merely additional service
25 to the community above and beyond the primary duty."

1 You see that?

2 A. Yes.

3 Q. And in 1981 was that your true feeling?

4 A. Well, I do agree.

5 Q. All right. So when you began the autopsy of
6 Natalie Wood, did you suspect murder?

7 A. That's the usual procedure throughout any
8 other physical evidence, to arrive to the conclusion as
9 to the manner of death.

10 Q. So after you performed the autopsy, did you
11 then decide it was an accident?

12 A. I don't remember how I arrived. Not murder,
13 no.

14 Q. Are you telling me that when you finished the
15 autopsy report for Natalie Wood, that you believed that
16 it was a murder?

17 MS. BIRENBAUM: Objection. Misstates
18 evidence or misstates testimony.

19 BY MR. PERRONI:

20 Q. I'm asking you, are you telling me right now
21 that after you finished the Natalie Wood autopsy, you
22 believed that she died because of a murder?

23 A. I did not feel so.

24 Q. And so that's why you closed it as an
25 accident?

1 A. Yes.

2 Q. Now, page 23, the same page there, a little
3 further down you say that you gave Paul Miller some
4 specific instructions including checking the sides of
5 the dinghy for fingernail scratches; correct?

6 A. Yes.

7 Q. As far as you remember is that what you did?

8 A. I think so.

9 Q. Okay. Now, during the Natalie Wood autopsy
10 did you collect fingernail clippings?

11 A. I don't remember.

12 Q. If you had a copy of the autopsy report, would
13 that help you?

14 A. Yes, if I described it.

15 Q. Okay. So are you telling me that if in the
16 autopsy report it says that you collected fingernail
17 clippings, then you did? And if it doesn't say that you
18 collected fingernail clippings, then you didn't? Is
19 that what you are saying?

20 MS. BIRENBAUM: Misstates testimony.

21 THE WITNESS: Well, I really don't
22 remember, no. I don't know.

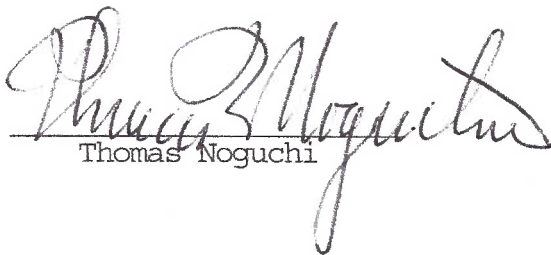
23 BY MR. PERRONI:

24 Q. You don't know one way or the other. Okay.
25 Why would you take fingernail clippings?

1 DECLARATION UNDER PENALTY OF PERJURY

2 I, Thomas Noguchi, do hereby certify under penalty
3 of perjury that I have read the foregoing transcript
4 of my deposition taken June 1, 2016; that I have
5 made such corrections as appear noted on the
6 Deposition Errata page, attached hereto, signed by
7 me; that my testimony as contained herein, as
8 corrected, is true and correct.

9
10 Dated this 8 day of July, 2016,
11 at Los Angeles
12 California.

13
14 
15 Thomas Noguchi

1 I, Maria Beesley, CSR 9132, Certified
2 Shorthand Reporter, do hereby certify:

3 That prior to being examined, the witness
4 named in the foregoing deposition was by me duly sworn;

5 That said deposition was taken down by me in
6 shorthand at the time and place therein named and
7 thereafter transcribed under my supervision;

8 I further certify that I am neither counsel
9 for, nor related to, any party to said proceedings, not
10 in any way interested in the outcome thereof.

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

14
15 Dated: June 7, 2016

16
17



18

19 _____
20 Maria Beesley, CSR No. 9132, RMR, FCRR

21
22
23
24
25

Samuel A. Perroni
424 West 4th Street
Suite A
North Little Rock, AR 72114
(501) 374-2818
sperroni.perronilaw@gmail.com

Pro Se for Petitioner SAMUEL A. PERRONI

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

SAMUEL A. PERRONI,)
)
 Petitioner)

vs.)

MARK A. FAJARDO,)
M.D., IN HIS OFFICIAL)
CAPACITY AS CHIEF MEDICAL)
EXAMINER-CORONER; LOS)
ANGELES COUNTY)
DEPARTMENT OF MEDICAL)
EXAMINER-CORONER; JIM)
McDONNELL, IN HIS OFFICIAL)
CAPACITY AS SHERIFF; AND)
THE COUNTY OF LOS ANGELES)
SHERIFF’S DEPARTMENT)
 Respondents.)

Case No. BS 159430
*(Assigned for All Purposes to the
Honorable James C. Chalfant, Dept. 85)*

**DECLARATION OF PAMELA K.
EAKER**

DECLARATION

I, Pamela K. Eaker, hereby state on oath the following:

1. I am a resident of the State of California.



2. In 1981, I was an Investigator for the Los Angeles County Medical Examiner-Coroner's Office.

3. As a part of my duties, I was dispatched to Catalina Island where I was the Medical Examiner-Coroner's Office first responder on Natalie Wood's drowning.

4. As a part of my work, I prepared the attached two page narrative detailing some of the things I observed and heard.

5. The last sentence in the last full paragraph on page two states, "No other trauma noted and foul play is not suspected at this time." When I was dispatched to Catalina Island on the morning of November 29, 1981, the call for the Coroner's Office involvement came in as an apparent accidental drowning of Natalie Wood. That call came into the Call Center at 8:30 a.m. on Sunday morning, November 29, 1981.

Further, Declarant sayeth not.

Dated: June 20, 2016

Pamela K. Eaker
Pamela K. Eaker
Declarant

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)
On June 20, 2016 before me, Shiela Imperial, Notary,
Date Here Insert Name and Title of the Officer
personally appeared Pamela K. Eaker
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Declaration
Document Date: 06/20/2016 Number of Pages: 5
Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

CONTINUATION SHEET

3

Case No. 81-15167

Case Name
WAGNER/Aka :WOOD, NATALIE

Found 11-29-81
Acc. 1
Date

Decedent is actress Natalie Wood who along with her husband Robert Wagner, a friend, and the skipper of the Wagner boat, were spending the weekend at Catalina Island.

In the early morning hours of Sunday, November 29, 1981, sometime after the group had returned to the boat, which was moored off the Isthmus, Mr. Wagner became aware that his wife and the boats dinghy were both missing. Mr. Wagner immediately radioed for help and a search was begun. Mrs. Wagner's body was spotted from the air by a Sheriff's Department helicopter that was enroute to the island to assist in the search. L.A. County Life Guards and two private searchers were the first ones to reach the body of Mrs. Wagner and pulled her from the water, where upon she was pronounced dead at 0744 hours.

Spoke with Don Whiting, night manager, of Doug's Harbor Reef, Catalina Isthmus, who related the following. Mr. Whiting arrived to work between 1600 and 1700 hours and the Wagner party was already in the bar and had been drinking. The party remained in the bar until approximately 1900 to 1930 hours at which time they were seated for dinner at the same location. During the course of the dinner, Mr. Whiting estimates that the group consumed a couple bottles of champagne. Mr. Whiting says the group left the restaurant to return to their boat at approximately 2200 to 2230 hours and that the entire group appeared to him to be intoxicated. Mr. Whiting at this time called Kurt Craig of the Harbor Patrol and asked him to make sure that the group reached their boat safely, which Mr. Craig is reported to have done.

Spoke with Mr. Wagner who related that the last time he remembers seeing his wife was at 2245 hours. Mr. Wagner when he realized his wife was missing, placed a radio call for help.

Don Whiting heard Mr. Wagner's radio call for help (Mr. Whiting lives on a boat and during his waking hours always monitors radio) at approximately 0130 hours and in turn called a friend on the Isthmus to go to the Wagner boat and advise him of the situation and if a search should be started.

When it was determined that indeed the dinghy and Natalie Wood were missing, a search was begun with Harbor Patrol, Bay Watch, private searchers, L.A. County Sheriff and U.S. Coast Guard all participating.

Mrs. Wagner's body was found approximately 200 yards off the Blue Cavern Point, Isthmus area of Catalina Island, and north of where the

DDW 036

INVESTIGATOR

DATE

Parula K. Guber

WHITE . FILE
YELLOW . TOXICOLOGY
PINK . INVESTIGATIONS

3

Case No. 81-1516 /
Case Name
WAGNER/Aka : WOOD, NATALIE
Found 11-29-81
Date 1

dinghy was found, near the shoreline, a couple hours earlier.

Mr. Wagner was also questioned regarding the possibility of suicide, however he states that wife was not suicidal.

Don Whiting was one of the private searches who located the dinghy and says that key was in the ignition, which was in the off position. The gear was in neutral and the oars tied down, and it appeared as if the boat had not even been used.

Decedent's body had been taken from the ocean and placed in the Hyperbaric Chamber building for safe keeping. Upon this investigators arrival at location, decedent observed lying in "stokes litter". Decedent is wrapped in plastic sheet, she herself is dressed in flannel nightgown and socks. The jacket that she was wearing when found floating, is no longer on the body, having come off when she was pulled from the water. At time decedent was pulled from the water, sheriff's personnel says that body was absent of any rigor and they noted foam coming from mouth. Decedent still has foam coming from mouth. Rigor is now present of a 3 to 4+ throughout her entire body. Decedent has numerous bruises to legs and arms. Decedent's eyes are also a bit cloudy appearing. No other trauma noted and foul play is not suspected at this time.

Skipper of the Wagner boat, Dennis Davern, identified body to sheriff's deputies.

Please notify Detectives Rasher and Hamilton 1-HOUR PRIOR TO POST
AT 974-4341.

PE

DDW 037

APPROVED
Handwritten signature
SR. INVEST.

Pamela K. Baker
INVESTIGATOR
Pamela K. Baker

11-29-81
DATE

WHITE - FILE
YELLOW - TOXICOLOGY
PINK - INVESTIGATIONS

Samuel A. Perroni
424 West 4th Street
Suite A
North Little Rock, AR 72114
(501) 374-2818
sperroni.perronilaw@gmail.com

Pro Se for Petitioner SAMUEL A. PERRONI

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

SAMUEL A. PERRONI,)
)
Petitioner)
)
)
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vs.)
)
)
)
MARK A. FAJARDO,)
M.D., IN HIS OFFICIAL)
CAPACITY AS CHIEF MEDICAL)
EXAMINER-CORONER; LOS)
ANGELES COUNTY)
DEPARTMENT OF MEDICAL)
EXAMINER-CORONER; JIM)
McDONNELL, IN HIS OFFICIAL)
CAPACITY AS SHERIFF; AND)
THE COUNTY OF LOS ANGELES)
SHERIFF'S DEPARTMENT)
)
Respondents.)
)
)
_____)

Case No. BS 159430
*(Assigned for All Purposes to the
Honorable James C. Chalfant, Dept. 85)*
**DECLARATION OF SAMUEL A.
PERRONI IN SUPPORT OF
PETITIONER'S REBUTTAL TRIAL
BRIEF**

I, Samuel A. Perroni, declare:



1. I am the Petitioner in this action. I make this Declaration in Support of Petitioner's Rebuttal Brief in this matter. I have personal knowledge of the following facts I could and would testify as follows:

2. Prior to filing my petition I made a California Public Records Act request of the Los Angeles County Medical Examiner-Coroner's Office for any and all documents contained in the Natalie Wood autopsy file. At no time did the Coroner's Office, or their lawyers, produce to me any narrative reports, such as the Pamela Eaker narrative report, which the Coroner's Office acknowledged before filing suit in this matter were disclosable public documents. I obtained the Pamela K. Eaker narrative report through an extensive search online for the complete autopsy report. I found part of the original autopsy report with the Eaker narrative report attached. I also found the Supplemental autopsy report issued in 2012 online before it and an incomplete copy of the original autopsy was released to me pre-petition by the Coroner's office and an incomplete copy of the original autopsy was disclosed to me by the LACSD, via counsel, after my petition was filed. I have attempted to independently find the Paul Miller report by searching for him with a subpoena *duces tecum* and by issuing a subpoena *duces tecum* to Dr. Thomas Noguchi to bring it to his deposition. Both proved fruitless.

3. After receiving Respondents Trial Brief and reading where Ed Winter, the Coroner's Public Information Officer, said there was "information" in the Natalie Wood files indicating release of the records, I caused a request for production to be issued to Respondents for any records showing release to the public. *Exhibit "A"*

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

Dated: August 16, 2016


Samuel A. Perroni
Petitioner *Pro Se*

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

On August 16, 2016, I served the foregoing document on the interested parties in this action by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

Daniel P. Barer
Pollak, Vida & Fisher
11150 W. Olympic Blvd, Suite 980
Los Angeles, CA 90064-1839

Anna L. Birenbaum
Pollak, Vida & Fisher
11150 W. Olympic Blvd, Suite 980
Los Angeles, CA 90064-1839

(BY MAIL) I deposited such envelopes in the mail at Little Rock, Arkansas. 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 Little Rock, Arkansas in the ordinary course of business.

(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addresses above.

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


(BY EMAIL) With the permission of the above-identified addressees, I transmitted the attached document via the email addresses provided.

(BY FACSIMILE) At the time indicated on the transmission report from fax phone 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.

(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 August 16, 2016, at North Little Rock, Arkansas.


Samuel A. Perroni

Samuel A. Perroni
424 West 4th Street
Suite A
North Little Rock, AR 72114
(501) 374-2818
sperroni.perronilaw@gmail.com

Pro Se for Petitioner SAMUEL A. PERRONI

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

SAMUEL A. PERRONI,)
)
Petitioner)
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vs.)
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)
MARK A. FAJARDO,)
M.D.,IN HIS OFFICIAL)
CAPACITY AS CHIEF MEDICAL)
EXAMINER-CORONER; LOS)
ANGELES COUNTY)
DEPARTMENT OF MEDICAL)
EXAMINER-CORONER; JIM)
McDONNELL, IN HIS OFFICIAL)
CAPACITY AS SHERIFF; AND)
THE COUNTY OF LOS ANGELES)
SHERIFF'S DEPARTMENT)
)
Respondents.)
)
)
_____)

Case No. BS 159430
*(Assigned for All Purposes to the
Honorable James C. Chalfant, Dept. 85)*

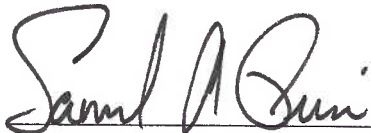
**PETITIONER'S THIRD SET OF
REQUESTS FOR PRODUCTION
PROPOUNDED TO RESPONDENT
JIM McDONNELL, IN HIS
OFFICIAL CAPACITY AS
SHERIFF; MARK A. FAJARDO,
M.D.,IN HIS OFFICIAL CAPACITY
AS CHIEF MEDICAL EXAMINER-
CORONER; AND LOS ANGELES
COUNTY (SERVED AS THE LOS
ANGELES COUNTY SHERIFF'S
DEPARTMENT AND LOS
ANGELES COUNTY MEDICAL
EXAMINER-CORONER'S OFFICE)**

Pursuant to Cal. C.C.P. §§ 2030.060; 2030.260 and 2031.030, Petitioner herein
propounds the following Requests for Production to Respondents to be answered in the manner
and time prescribed by law:



REQUEST FOR PRODUCTION NO. 1. You are requested to produce any and all documents, records, notes, memos, and any other writings that would evidence disclosure of any and all files, records, or other documents to the public relating to files in your possession concerning the death of Natalie Wagner also known as Natalie Wood.

DATED: August 4, 2016

By: 
Samuel A. Perroni, Petitioner *Pro Se*
424 West 4th Street, Suite A
North Little Rock, AR 72114
Telephone (501) 374-2818
Fax: (501) 353-0517
sperroni.perronilaw@gmail.com

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

On August 4, 2016, I served the foregoing document on the interested parties in this action by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

Daniel P. Barer
Pollak, Vida & Fisher
11150 W. Olympic Blvd, Suite 980
Los Angeles, CA 90064-1839

Anna L. Birenbaum
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(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addresses above.

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

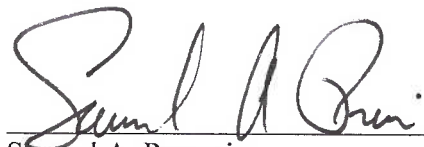
(BY EMAIL) With the permission of the above-identified addressees, I transmitted the attached document via the email addresses provided.

(BY FACSIMILE) At the time indicated on the transmission report from fax phone 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.

(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 August 4, 2016, at North Little Rock, Arkansas.



Samuel A. Perroni



Summer Pruett <summer.perronilaw@gmail.com>

Perroni v. Fajardo, et al

1 message

Summer Pruett <summer.perronilaw@gmail.com>

Thu, Aug 4, 2016 at 4:59 PM

To: Daniel Barer <dpb@pvandf.com>, Anna Birenbaum <alb@pvandf.com>

Bcc: "Samuel A. Perroni" <sperroni1@hotmail.com>

Counsel,

Attached is a copy of Petitioner's Request for Production. I am placing a signed hard copy in the mail to you today.

Thanks,

--

Summer PruettSamuel A. Perroni, P.A.
424 W. 4th Street, Suite A
North Little Rock, AR 72114
Tel: (501) 374-2818
Fax: (501) 353-0517**Request for Production No 3.080416.pdf**

209K

Ex. 24

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SAMUEL A. PERRONI,

Petitioner,

vs.

MARK A. FAJARDO, M.D., ET AL,

Respondents.

) Case No. BS159430

ORIGINAL

DEPOSITION OF RALPH HERNANDEZ

Tuesday, May 3, 2016

11:47 A.M.

Westin Bonaventure Hotel

Room No. 3064, Blue Tower

404 South Figueroa Street

Los Angeles, CA 90071

JOB NO. 127564

REPORTED BY:

Christine Kwon-Chang

CSR No. 12143, RPR, CRR



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APPEARANCES:

For Petitioner: Samuel A. Perroni

SAMUEL A. PERRONI, P.A.
BY: Samuel A. Perroni, Esq.
(In Pro Per)
424 West 4th Street, Suite A
North Little Rock, AZ 72114
501.374.2818
summer.perronilaw@gmail.com

For Respondents: Mark A. Fajardo, M.D.; County of
Los Angeles (sued as itself and as Department of
Medical Examiner/Coroner and County of Los
Angeles); and Jim McDonnell

POLLAK VIDA & FISHER
BY: Anna Birenbaum, Esq.
11150 West Olympic Boulevard
Suite 980
Los Angeles, CA 90064
310.551.3400
alb@pvandf.com

Also Present:

JAN MORRIS

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LOS ANGELES, CALIFORNIA;

TUESDAY, MAY 3, 2016, 11:47 A.M.

MR. PERRONI: Why don't you swear the witness?

RALPH HERNANDEZ,

having been first duly sworn was examined and
testified as follows:

MR. PERRONI: Before we start, we had a
stipulation for Corina.

Do you want to attempt the same
stipulation --

MS. BIRENBAUM: Other than the evidentiary
objections, the rest of the stipulation is fine.

I will withdraw my -- any agreement
about objections.

MR. PERRONI: Okay. So you're going to -- you
want -- notwithstanding the rules, you're saying that
you can reserve your objections to anything other than
the form and privilege, you still want to object to
everything?

MS. BIRENBAUM: Please don't harass me on the
record. I'm telling you I want to raise all
objections I'm legally entitled to raise on the
record.

1 meeting, if anything?

2 MS. BIRENBAUM: Objection.

3 Seeks privileged information protected
4 by Evidence Code Section 1040.

5 Instruct the witness not to answer.

6 MR. PERRONI: By the way, for purposes of this
7 deposition, are you representing this witness?

8 MS. BIRENBAUM: Yes, I am, sir.

9 BY MR. PERRONI:

10 Q At the January the 24th, 2012, meeting
11 what did Paul Miller say?

12 MS. BIRENBAUM: Same objection.

13 Under the privilege of Evidence Code
14 Section 1040, instruct the witness not to answer.

15 BY MR. PERRONI:

16 Q Paul Miller take a copy of his report
17 with him when he left the meeting?

18 MS. BIRENBAUM: Same objection as to Evidence
19 Code Section 1040.

20 Instruct the witness -- give me a moment
21 to reread the question, please.

22 I'm going to instruct the witness not to
23 answer.

24 BY MR. PERRONI:

25 Q The report says that there was another

1 your work, you have reviewed everything that was in
2 those files?

3 A Yes.

4 But it's the same file. It's the same
5 file.

6 Q Right. Okay.

7 So there's one single file now. Both of
8 them have been merged together?

9 MS. BIRENBAUM: Misstates prior testimony.

10 THE WITNESS: They were never separate files.

11 BY MR. PERRONI:

12 Q Okay. The numbers --

13 A The file number is just a police report
14 number.

15 Q And it was changed. Okay. Got it. All
16 right.

17 Now, is it fair to say that as of
18 December the 11th, 1981, that the case was closed?

19 MS. BIRENBAUM: Vague and ambiguous.

20 THE WITNESS: It's dated December 11th, but I
21 can't sit here and tell you that without a fact (sic)
22 that it was closed on December 11th.

23 BY MR. PERRONI:

24 Q All right. That's fair enough.

25 Is it fair to say that the case was

1 closed sometime?

2 A Yes.

3 Q Okay. Now, at the time it was closed,
4 based on your review of both of these files, was there
5 ever a concrete and definite prospect that a homicide
6 occurred?

7 MS. BIRENBAUM: Objection.

8 Misstates testimony. It's also not
9 relevant to a petition for release of records in this
10 case. Also seeks an expert's opinion -- seeks an
11 opinion --

12

13 (Brief interruption.)

14

15 MR. PERRONI: Why don't we stop here for a
16 second?

17 MS. BIRENBAUM: You want to go off the record?

18 Sure.

19

20 (Brief recess.)

21

22 MR. PERRONI: We're back on.

23 MS. BIRENBAUM: I'm also going to add that this
24 seeks information that's protected by the
25 investigatory privilege, and I'm going to instruct the

1 hundred, maybe more.

2 Q Okay. Well, I'm asking you, based on
3 what you saw on that file, is there anything in there
4 that would suggest that a homicide was committed?

5 MS. BIRENBAUM: This seeks privileged
6 information under Evidence Code Section 1040, and
7 instruct the witness not to answer.

8 BY MR. PERRONI:

9 Q Based on your review of that file, is
10 there anything in there that would suggest to you that
11 there was a suspect in a homicide?

12 MS. BIRENBAUM: Same objections. Same
13 instructions.

14 BY MR. PERRONI:

15 Q Have you ever talked to an author by the
16 name of Suzanne Finstad?

17 A Yes.

18 Q When did you talk to her?

19 A I don't recall dates. I don't recall
20 dates.

21 Q Well, I know. You don't have to give me
22 a date. Just give me an estimate.

23 How many years ago?

24 A During the reinvestigation, as recent as
25 this year.

1 Q As recent as what?

2 A This year.

3 Q Okay. What did you talk about?

4 MS. BIRENBAUM: This potentially seeks
5 information that pertains to the investigation. As
6 such, it is privileged under Evidence Code Section
7 1040.

8 If it can be answered without revealing
9 any privileged information, witness is free to answer.

10 If the question invades the privilege,
11 I'm going to instruct him not to answer.

12 THE WITNESS: I think it does invade.

13 MS. BIRENBAUM: Okay.

14 MR. PERRONI: I'm going to to wait until it
15 gets up because I don't understand what was said here.

16 BY MR. PERRONI:

17 Q You said you think it invades the
18 privilege?

19 A Yes.

20 Q What kind of privilege?

21 A Under the Evidence Code.

22 Q Yeah?

23 A And protected, an open and active
24 investigation.

25 Q An open and active investigation. Okay.

1 documents out of those files other than -- other than
2 any other agencies in Los Angeles or people that you
3 are working with in the investigation?

4 Do you want me to ask it again?

5 MS. BIRENBAUM: I'm going to object. It's
6 vague and ambiguous.

7 Maybe we can maybe break it down a
8 little bit.

9 MR. PERRONI: Anna, I'll take care of it.

10 MS. BIRENBAUM: It's a huge question.

11 BY MR. PERRONI:

12 Q Have you given Suzanne Finstad anything
13 out of the files of Natalie Wood's investigation?

14 A No.

15 Q Have you given Sam Kashner anything out
16 of the files of Natalie Wood's investigation?

17 A No.

18 Q Have you given Marti Rulli anything out
19 of the files?

20 A No.

21 Q And when I say "anything," I'm talking
22 about either orally or documents, e-mail --

23 MS. BIRENBAUM: This is a new question now.

24 You're now giving a new definition, just
25 to clarify.

1 BY MR. PERRONI:

2 Q When I'm saying "anything," I'm talking
3 about have you given, for instance, Marti Rulli any
4 information out of the files?

5 It could be oral. It doesn't have to be
6 given or a document.

7 MS. BIRENBAUM: This is leading to a path that
8 comes into the investigatory privilege, and if the
9 witness can't answer it without breaching -- without
10 revealing information that is privileged, I'll
11 instruct you not to answer.

12 To the extent he can answer without
13 revealing privileged information based on this new
14 definition that hadn't been given with the previous
15 five questions --

16 THE WITNESS: I think I could answer.

17 MS. BIRENBAUM: Okay.

18 THE WITNESS: Yes. Yes.

19 BY MR. PERRONI:

20 Q Yes?

21 And what have you given her?

22 A I don't recall. Specifically, I don't
23 recall.

24 Q So was it orally?

25 A Yes.

1 Q Okay. It would be over the telephone?

2 A I don't recall because we did have a
3 personal meeting with her.

4 Q Okay. How about e-mails? Give her any
5 information in any e-mails?

6 A No.

7 Q Okay. Now, I want to be specific about
8 this.

9 What you gave her, was it documents or
10 was it just oral information?

11 A Oral. No documents.

12 Q No documents?

13 A No.

14 Q So it was oral information?

15 A Correct.

16 Q Okay. And was it information that was
17 gained since November the 18th, 2011?

18 MS. BIRENBAUM: To the extent that this
19 interferes with the investigatory privilege, I'll
20 instruct the witness not to answer.

21 If he can answer without breaching the
22 privilege.

23 THE WITNESS: I don't think so. I don't think
24 so. I don't recall.

25

1 department has given Suzanne Finstad anything out of
2 the files?

3 This is personal knowledge.

4 MS. BIRENBAUM: Objection.

5 You're so overbroad.

6 Based on anything?

7 BY MR. PERRONI:

8 Q I'm just asking, do you know?

9 A To who? Given to who?

10 Q Suzanne Finstad.

11 A Actual documents out of the file?

12 Q Or information.

13 A What kind of information?

14 Q Anything about the files.

15 I don't know because, you see, they
16 won't give me the files, so I don't know how to ask
17 this other than that you can either give somebody
18 files or you can tell somebody what's in a file.

19 MS. BIRENBAUM: So you're asking -- because the
20 witness doesn't understand your question and we're at
21 an impasse --

22 MR. PERRONI: No, we're not at an impasse,
23 Anna, and I need for you to butt out.

24 MS. BIRENBAUM: I'll butt out, but my witness
25 is telling you that he doesn't understand your

1 question.

2 MR. PERRONI: Let me start over.

3 BY MR. PERRONI:

4 Q Do you have personal knowledge of anyone
5 in the department giving Suzanne Finstad any
6 information out of these files, the files on Natalie
7 Wood's death?

8 MS. BIRENBAUM: Objection.

9 Overbroad. Vague and ambiguous. Calls
10 for speculation.

11 BY MR. PERRONI:

12 Q You're shaking your head.

13 A Yeah. I don't feel like answering the
14 question because it is -- it is vague and ambiguous.

15 And you're talking about exactly what's
16 in a report, if that's being shared is different than
17 somebody's knowledge of an investigation.

18 Do you understand the difference?

19 Q Okay. What's in a report is different
20 from somebody's knowledge of the investigation?

21 A Correct.

22 Q Okay. But isn't it information
23 irrespective of whether it's somebody's knowledge or
24 not?

25 A It's not the same as why we're here,

1 sir. We're here for a Public Records Act request.

2 Q Right.

3 And we're also here because your
4 attorneys have imposed the investigatory privilege,
5 privacy, et cetera, et cetera.

6 And what I'm trying to do is determine
7 whether their defenses are viable. It's not just my
8 Public Records Act, which she would like for it to be.

9 It's whether or not their defenses are
10 viable, and so this is in connection with the
11 investigatory exemption.

12 I beg to differ with her about what's
13 privileged and what's not privileged in connection
14 with a Public Records Act case and the investigatory
15 exemption.

16 And so what I'm trying to do is, I'm
17 trying to find out if you all have waived anything by
18 giving things to people who don't have a reason to
19 know about it --

20 MS. BIRENBAUM: Okay. Since we're --

21 BY MR. PERRONI:

22 Q -- other than they are trying to get
23 information from you?

24 MS. BIRENBAUM: Since we're at an impasse and
25 since these questions --

1 BY MR. PERRONI:

2 Q Let me try this again.

3 I asked you a series of questions about
4 what you did personally. Now I'm trying to get at
5 what you know -- what you have personal knowledge of
6 that other people in your department have done.

7 And my question specifically to you is,
8 do you know if anyone in the department has given
9 Suzanne Finstad any information out of the files?

10 A Okay. No.

11 Q Okay. How about -- go ahead.

12 MS. BIRENBAUM: You answered the question.

13 THE WITNESS: No.

14 But I'm under perjury here -- under
15 oath, and I'm just trying to think of -- I believe she
16 was afforded -- I think she was one of the authors.

17 And the problem is I'm not sure, and so
18 that's why some of your questions are also unfair, but
19 I believe she was one of the authors who gained access
20 to the file when it was closed and inactive.

21 BY MR. PERRONI:

22 Q Okay.

23 A And I couldn't tell you without a doubt
24 who allowed her that access.

25 Q Okay.

1 A And I couldn't tell you it was her that
2 was given access back then.

3 Q Okay.

4 A Yeah.

5 Q All right. That's fair enough.

6 Now, how about since November the 18th,
7 2011, do you know if anyone in the department has
8 given Suzanne Finstad any information out of the file?

9 A No. No.

10 Q You don't know of anyone?

11 A (No audible response.)

12 Q The witness is shaking his head.

13 You need to say "yes" or "no."

14 A I said no.

15 MS. BIRENBAUM: You asked two questions.

16 BY MR. PERRONI:

17 Q Okay. Now, how about the same question
18 for Marti Rulli.

19 Since November the 18th, 2011, do you
20 know if anyone in the department has given Marti Rulli
21 any information out of the investigative file on
22 Natalie Wood's death?

23 A And when you say "anything," we're
24 talking oral also?

25 Q We're talking oral or documents.

1 A Here's the thing. Marti Rulli was a
2 part of the investigation.

3 Q Right. I know that.

4 A Somebody that -- let's see -- this
5 gives --

6 MS. BIRENBAUM: So we're going to be getting
7 into the investigatory privilege here, so I'm going to
8 have to instruct the witness not to answer the
9 question unless there's some way you can cut the
10 question down here.

11 This definition is so broad.

12 BY MR. PERRONI:

13 Q My question is not what they gave her.
14 My question is do you know if anyone gave her any
15 information out of the file?

16 MS. BIRENBAUM: I'm going to, again, instruct
17 the witness not to answer under the Evidence Code
18 under this definition of "anything."

19 THE WITNESS: I could explain if you want me
20 to.

21 MS. BIRENBAUM: If you feel you can explain
22 without waiving any privileges in the interest of
23 trying to move this deposition forward and meet and
24 confer and work in good spirits, that's fine.

25 But if you believe it's going to

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DECLARATION UNDER PENALTY OF PERJURY

I, Ralph Hernandez, do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken May 3, 2016; that I have made such corrections as appear noted on the Deposition Errata Sheet, attached hereto, signed by me; that my testimony as contained herein, as corrected, is true and correct.

Dated this 30 day of MAY,
2016 at MONTEREY PARK,
California.



RALPH HERNANDEZ

1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES)

3
4 I, Christine Kwon-Chang, CSR 12143, Certified
5 Shorthand Reporter, do hereby certify:


6 That prior to being examined, the witness named
7 in the foregoing deposition was by me duly sworn;

8 That said deposition was taken down by me in
9 shorthand at the time and place named and thereafter
10 transcribed under my direction;

11 I further certify that I am neither counsel
12 for, nor related to, any party to said proceedings,
13 not in any way interested in the outcome thereof.

14 I declare under penalty of perjury under the
15 law of the State of California that the foregoing is
16 true and correct.

17
18 Dated: May 17, 2016

19
20 
21 _____
22 Christine Kwon-Chang
23 CSR No. 12143, RPR, CRR
24
25