

1 David Abrams (Pro Se)
305 Broadway Suite 601
2 New York, NY 10007
212-897-5821
3 Fax Number: 212-897-5811
Email: dnabrams@wjlf.org
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5 David Abrams, IN PRO PER
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**
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| 11 David Abrams, |) | Case No.: 19STCP03648 |
| |) | |
| 12 Plaintiff(s), |) | PETITIONER'S MEMORANDUM OF |
| |) | POINTS AND AUTHORITIES |
| 13 vs. |) | |
| |) | |
| 14 Regents of the University of California |) | DATE: 1/7/2020 |
| |) | TIME: 1:30pm |
| |) | DEPT: 85 |
| 15 Defendant(s). |) | |
| |) | Judge: Hon. James C. Chalfant |
| |) | Dept: 85 |
| |) | Action Filed: 8/22/2019 |
| |) | Trial Date: None Set |
| |) | |
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20 **I. Defendant's Mischaracterization of the Facts: Petitioner Seeks the Identities of Public Presenters Rather than Organizers**
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22 Perhaps realizing the fundamental weakness in its position, Defendant has flagrantly
23 mischaracterized the nature of the Petition here. More specifically, Defendant has claimed that
24 Petitioner is attempting to learn the identities of the "organizers" of a conference hosted by the
25 Defendant. To put it politely, this claim is false. Petitioner is attempting to learn only the identities
26 of speakers and presenters, i.e. people who chose to publicly speak in connection with a supposedly
27 "open" debate. Obviously such persons, having chosen to make public presentations at a public
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1 university, have little reasonable expectation of privacy in a jurisdiction like California which prizes
2 such openness.

3 Certainly these presenters have less expectation of privacy than individuals who have
4 obtained gun permits. *See CBS Inc. v. Block*, 42 Cal.3d 646 (1986) (requiring sheriff to turn over
5 names of gun permit holders, despite speculation about "possible endangerment").

6 The fact that Defendant has chosen to misrepresent the facts to this Court is essentially an
7 admission that its position is ultimately indefensible.

8 **II. The Actual Facts**

9 The actual facts are stated in detail in the Complaint in this matter. Briefly, in November of
10 2018 the University of California ("Defendant") hosted and subsidized a conference put on by a
11 group called "Students for Justice in Palestine" ("SJP"). (*See* Petition Para. 1). The Defendant's
12 Chancellor publicly defended the decision to host the SJP Conference, citing "open" debate.
13 (Petition Para. 11 and Exhibit 3).

14 In the past, SJP has hosted speakers who were affiliated with terrorist organizations.
15 (Petition Para. 2-3). Petitioner served a freedom of information request seeking the identities of
16 these speakers. (Petition Para. 10). Defendant has declined the request, speculating about
17 "endangerment" and "blacklisting" of these individuals on a web site known as "Canary Mission."
18 (Petition Para. 13 and Exhibit 4). Defendant explicitly cited Canary Mission. (*See id.*) Legally,
19 Defendant relied on a statute which provides as follows:

20 The agency shall justify withholding any record by demonstrating . . .that on the facts of the
21 particular case the public interest served by not disclosing the record clearly outweighs the
22 public interest served by disclosure of the record.

23 California Government Code Section 6255; Petition Para. 13 and Exhibit 4.

24 It appears the only individual ever to lose a job due to being listed on Canary Mission was a
25 physician who had threatened to give the wrong medicine to Jewish patients. (Petition Para. 14-
26 15). Canary Mission exposed this individual's social media posts, resulting in her being discharged.
27 (Petition Para. 15). There is no evidence that anyone has been physically harmed as a result of
28 having his or her name published on the Canary Mission web site. (Petition Para. 14).

1 Petitioner has consulted with California counsel in respect of this matter and may incur legal
2 fees going forward.

3 **III. Motions to Strike are Disfavored**

4 "[M]otions to strike are disfavored;the policy of the law is to construe pleadings liberally
5 with a view to substantial justice." *J. Cyril Johnson Family L.P. v. Merlone Geier IX, LLC*, Case
6 No. 18CV328188 (Sup. Ct. San Diego County Feb. 5, 2019) Slip. Op. at 11.

7 Here, where there is no jury, rather than strike parts of the pleadings, the Court should
8 simply disregard matters it deems irrelevant. In any event, as set forth below, the portions of the
9 Complaint at issue are in fact relevant.

10 **IV. Petitioner May Recover Attorneys Fees**

11 The precedent cited by the Defendant, *Trope v. Katz* 11 Cal 4th 275 (1995) makes clear that
12 under certain limited circumstances, pro se attorneys may recover attorneys fees:

13 Accordingly, the usual and ordinary meaning of the words "attorney's fees," both in legal
14 and in general usage, is the consideration that a litigant actually pays or becomes liable to
15 pay in exchange for legal representation.

16 *Id.* at 280.

17 Here, petitioner has already consulted with a California attorney and may expend actual
18 consideration for attorney services in the future such as similar consultations or per diem
19 representation at future Court appearances.

20 Thus, this aspect of Defendant's motion to strike is, at best, premature. Petitioner will apply
21 for attorneys fees only in the event that (1) Petitioner prevails; (2) Petitioner actually expended
22 monies on legal representation; and (3) any other statutory requirements are met.

23 **V. Allegations Concerning the Canary Mission are Relevant**

24 Defendant has opened the door wide to allegations about the Canary Mission, explicitly
25 identifying Canary Mission and raising the issue long before Petitioner ever mentioned it.
26 Specifically, Defendant specifically cited the web site "canarymission.org" when it rejected
27 Petitioner's freedom of information request, speculating about "blacklists," "endangerment," and
28 "harassment." *See* Petition Exhibit 4.

1 Thus, it is completely relevant -- and the Court should be aware -- that apparently the only
2 person ever to have been blacklisted by the Canary Mission was a physician who had threatened to
3 give the wrong medicine to Jewish patients. If this is the type of "blacklisting" the Defendant is
4 concerned about, it shows that Defendant's concern about "endangerment" is as wrong as wrong can
5 be. The actual "endangerment" is in preventing the public from learning the names of the types of
6 individuals who have been exposed by the Canary Mission.

7 Importantly, the freedom of information exception relied upon by Respondent entails a
8 balancing test. Defendant has the burden of proving that there is a strong public interest in not
9 disclosing the records. The facts show that Defendant's speculations about Canary Mission are
10 wildly overblown; this is very much relevant to the applicable balancing test.

11 **VI. Allegations Concerning Petitioner's Activities Are Relevant**

12 Although Defendant may be correct that the specific motivations of Petitioner are not strictly
13 relevant to the freedom of information request, Petitioner's activities provide important context
14 which is highly relevant to the balancing of interests here.

15 Specifically, the information sought by Petitioner is important and relevant to the
16 compelling public interest in identifying institutions which are providing support to terrorism. At
17 the moment, petitioner is the most prominent member of the American public who regularly
18 identifies and sues organizations for simultaneously supporting terrorism and accepting USAID
19 monies. The fact is that the United States Department of Justice is very appreciative of citizens --
20 such as petitioner -- who ferret out information connecting USAID-supported organizations and
21 designated terrorists.

22 As alleged in the Complaint, the organization at issue has in the past had speakers who were
23 affiliated with terrorist organizations. The public has a very strong interest in learning who the most
24 recent speakers were in order to learn whether this practice has continued with the support of the
25 Defendant. Petitioner is an important part of the public.

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1 **VII. Allegations Concerning SJP's Connection to Terrorism Are Relevant**

2 The fact that SJP has hosted terrorists in the past adds weight to the argument that there is a
3 strong public interest in learning the names of the persons speaking at supposedly "open" SJP
4 conferences. Again, this is very much relevant to the balancing test of Section 6255.

5 **VII. Conclusion**

6 For the foregoing reasons, Defendant's motion should be denied.

7 Respectfully submitted,

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9 DATED: December 8, 2019

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11 David Abrams
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