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FILED
Superior Court of California
County of Los Angeles

MAR 12 2015

Sherri R. Carter, Executive Officer/Clerk
By Cristina Grijalva Deputy
Cristina Grijalva

Attorneys for Plaintiff JAMES ANTHONY SCOTT

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JAMES ANTHONY SCOTT, a minor, appearing through AMBER BAKER, his Guardian ad Litem, Plaintiff, vs. LOS ANGELES UNIFIED SCHOOL DISTRICT; and DOES 1 through 50, inclusive, Defendants.	CASE NO.: BC547897 (Assigned to Hon. Gregory Alarcon) **PLAINTIFF JAMES ANTHONY SCOTT'S MOTION TO QUASH DEFENDANT LOS ANGELES UNIFIED SCHOOL DISTRICT'S SUBPOENAED ENTITIES TO PRODUCTION OF RECORDS – SECOND SET; DECLARATION OF JAMES ANTHONY SCOTT, DECLARATION OF MARGERY N. SOMERS AND DECLARATION OF DR. DEBORAH HOFFMAN** Date: April 14, 2015 Time: 8:30 a.m. Dept.: 36

TO ALL THIRD PARTIES LISTED BELOW, DEFENDANT LOS ANGELES UNIFIED SCHOOL DISTRICT AND ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on April 14, 2015 or as soon thereafter as this matter can be heard in Department 36 of this Court located at 111 N. Hill Street, Los Angeles, CA 90012, Plaintiff James Anthony Scott ("Plaintiff") will and hereby does move for an Order quashing the subpoenaed entities from producing documents pursuant to Defendant's newly served subpoenas, somewhat narrowed (from the same broader subpoenas served in December

CITY/CASE: BC547897
LEA/DEF#:
RECEIPT #: CCC 957709
DATE PAID: 03/12/15 @ 3:10 PM
PAYMENT: 310
RECEIVED: $60.00
CHEG: $0.00
CASH: $0.00
CHANGE: $0.00
BRD: $0.00

03/13/2015

2014).

Defendant's newest January 26, 2014 Deposition Subpoenas for Production of Business Records seek educational, medical and group home records regarding Plaintiff James Anthony Scott and are summarized as follows:

1. Opportunities for Learning – Plaintiff's past school - Defendant already has his grades as a part of his LAUSD record to prove/disprove "loss of educational benefit" Plaintiff agrees that Defendant can subpoena his grades (but not his entire school record).

2. Lifeworks, Los Angeles LGBT Center – An organization where Plaintiff volunteered is unrelated to Plaintiff's claims, damages and/or LAUSD's defenses.

3. Los Angeles Youth Network – Plaintiff's foster care placement records would be an egregious invasion of his privacy and third party individuals' privacy as well.

4. Penny Lane Group Home – Plaintiff's foster care placement records would be an egregious of his invasion of privacy and third party individuals' privacy as well.

5. Maurice Zeitlian, M.D., Village Family Services – Regarding Dr. Zeitlian's records, "Releasing records could pose psychological and/or psychosocial danger to the [plaintiff]..." (See Decl. of Dr. Deborah Hoffman). Thus, Plaintiff's counsel joins Dr. Hoffman in protecting Plaintiff from danger and asks the Court to join in protecting Plaintiff from danger by quashing Defendant's subpoenas. As an alternative, Plaintiff is asking the Court/expert referee to determine redactions to protect Plaintiff before producing said records.

6. Carlos Lack, Village Family Services – Regarding Carlos Lack's records, "Releasing records could pose psychological and/or psychosocial danger to the [plaintiff]..." (See Decl. of Dr. Deborah Hoffman). Thus, Plaintiff's counsel joins Dr. Hoffman in protecting Plaintiff from danger and asks the Court to join in protecting Plaintiff from danger by quashing Defendant's subpoenas. As an alternative, Plaintiff is asking the Court/expert referee to determine redactions to protect Plaintiff before producing said records.

This motion is made on the grounds that the information sought is irrelevant to Plaintiff's claims and damages and the records are further irrelevant to prove or rebut Plaintiff's claims or may pose danger to the plaintiff if so released. Thus, the documents requested are both directly

03/13/2015

irrelevant to Plaintiff's claims and are not reasonably calculated to lead to the discovery of admissible evidence.

This motion is based on the Code of Civil Procedure § 1985 et. seq.; this notice; the attached memorandum of points and authorities; declarations of counsel Margery Somers and resubmitted declarations (submitted for our January 9, 2015 hearing) of Plaintiff James Anthony Scott and Dr. Deborah Hoffman, Director of Village Family Services Psychological Services; on the pleadings, records and files herein; and on any evidence received by the Court during the hearing hereon.

Dated: March 12, 2015

ALLRED, MAROKO & GOLDBERG

By: _____
MARGERY N. SOMERS
Attorneys for Plaintiff James Anthony Scott

03/13/2015

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On January 19, 2015, Defendant served subpoenas to the same entities previously served, somewhat narrowing their request for documents. Plaintiff's counsel, within five days, sent letters of objection (See Decl. of Margery N. Somers, Exh. D) informing the entities that a potential Motion to Quash would be lodged unless meet and confer efforts resulted in compromise. Regretfully we were unable to resolve these issues.

Crucial and at the basis of Plaintiff's Motion to Quash is Dr. Deborah Hoffman's objection to produce records stating, "Releasing records could pose psychological and/or psychosocial danger to the CLIENT..." (See Decl. of Dr. Deborah Hoffman attached herein). Further production of Plaintiff's residential placement records and what led up him being placed in the foster care system through the Department of Social Services is a violation of Plaintiff's privacy, his family members, privacy and third parties privacy rights. Most importantly, these records have nothing to do with Plaintiff's claims of being bullied and LAUSD failing to protect him.

Plaintiff's Motion to Quash regards these subpoenas, that were narrowed somewhat, but are still overbroad, violative of Plaintiff's and third parties privacy and are not likely to lead to admissible evidence. Most importantly releasing the psych records could cause danger to the Plaintiff which counsel is concerned about. (See Decl. of Dr. Deborah Hoffman attached herein).

After meeting and conferring with the defense throughout the past month (See Decl. of Margery N. Somers, regarding meet and confer efforts), we still have yet to understand how Plaintiff's foster care placement records are relevant to Plaintiff's claims that Los Angeles Unified School District failed to act to protect him thus causing him a loss of educational benefit. Clearly any child assigned to the foster care system is so assigned due to parental issues such as illness, financial inability, incapacity or a multitude of other possible reasons likely painful and/or hurtful.

On a public policy note, it would seem cruel and unnecessary to embark on opening up Plaintiff's foster care records regarding his disruptive past. More specifically the subpoenas

address the following:

1. *Opportunities for Learning* – This is Plaintiff's previous school. Defendant already has Plaintiff's grades to prove or disprove that his grades deteriorated, that he lost educational benefit as a result of the bullying at Defendant's LAUSD school (wherein Defendant failed to protect him). Plaintiff fails to understand how records other than grades, would show Plaintiff's loss of educational benefit/or non-loss of educational benefit as Defendant is asserting). Plaintiff is glad to have his grades only produced by a narrowing of the subpoena.

2. *Los Angeles LGBT Center*: This is a public Community Center where James volunteered and mentored other gay and lesbian youth. These records of his involvement and engagement are completely irrelevant to his claims and damages. If a sexual harassment victim volunteered at a soup kitchen on the weekends would this proffer evidence of sexual harassment in the workplace?

3. *Los Angeles Youth Network:* While in the foster care system, James lived at this Group Home (not an educational placement as Defendant previously suggested). This was his home at the time (similar to a college dorm, homeless shelter or foster family). These records are completely irrelevant to his claims of bullying at school, lack of protection by LAUSD and damages arising therefrom.

4. *Penny Lane Group Home*: Likewise as stated above - while in the foster care system James lived at this Group Home. This was his home (similar to a college dorm, foster care family or homeless shelter) .These records are completely irrelevant to his claims.

5. *Maurice Zeitlian, M.D., Village Family Services* – Regarding Dr. Zeitlian's records, "Releasing records could pose psychological and/or psychosocial danger to the [plaintiff]…" (See Decl. of Dr. Deborah Hoffman). Thus, Plaintiff's counsel joins Dr. Hoffman in protecting Plaintiff from danger and asks the Court to join in protecting Plaintiff from danger by quashing Defendant's subpoenas. As an alternative, Plaintiff is asking the Court/expert referee to determine redactions to protect Plaintiff before producing said records.

6. *Carlos Lack, Village Family Services* – Regarding Carlos Lack's records, "Releasing records could pose psychological and/or psychosocial danger to the [plaintiff]…"

03/13/2015

(See Decl. of Dr. Deborah Hoffman). Thus, Plaintiff's counsel joins Dr. Hoffman in protecting Plaintiff from danger and asks the Court to join in protecting Plaintiff from danger by quashing Defendant's subpoenas. As an alternative, Plaintiff is asking the Court/expert referee to determine redactions to protect Plaintiff before producing said records.

II. BACKGROUND FACTS

Defendant, LAUSD, through its Administrators, District Officials and other employees failed to respond to and protect Plaintiff, a 15-year-old gay male student at Daniel Pearl Magnet School, who was subjected to continual bullying, harassment and personal injury by students, calling him "tranny", "nigger", faggot" and threatening, tripping, kicking and shoving him.

His continual reports to the Principal and other Administrators were met with mocking, chuckling and complete disregard including, the Principal putting a paper leaf on her own badge that said, "Faggot" when Plaintiff found it stuffed in his locker. Plaintiff persevered with reporting, despite being discouraged from reporting and being accused of lying by the Principal. No meaningful investigation or corrective action was taken. Plaintiff was left unprotected and was subjected to escalated threats, bullying, harassment and physical injury.

Defendant is going on a fishing expedition - moving this Court to compel voluminous records of Plaintiff regarding his psychological, psychiatric, educational, community activity, foster care and group home records.

Plaintiff's complete educational records and complete school history and Dept. Child and Family Services/Foster Care & Group Home Records pertaining to his residential placements are completely irrelevant to this matter. In general, his Dept. of Child and Family Services Foster housing placement at Penny Lane Group Home and LA Youth Network are intrusive of his and other children's privacy as well as his mother's privacy as to why he was separated from his home. His placements in the foster care system regarding his housing accommodations are not relevant to his claims. Further, where Plaintiff spent his after school time, volunteering and mentoring, at Lifeworks, the gay and lesbian center have no bearing on this matter. Thus, Plaintiff opposes their production and asserts that defense has already deposed Plaintiff to learn of any witnesses derived from these places that may have relevant testimony.

03/13/2015

Any school records – Opportunities for Learning - should be narrowed to require production of his grades only - to show his educational progress or lack thereof - not including other matters such as school clubs, etc. and or other issues. The standard under which Plaintiff brings his Education Code § 220 et. seq. requires a loss of educational benefit; hence, decline in grades would tend to show such.

III. PLAINTIFF'S POSITION REGARDING THESE RECORDS

Plaintiff's position is:

1. Opportunities for Learning and Lifeworks: These educational records should be limited to his academic grades only from August 2012 to the present to examine the academic effects of the escalated bullying resulting from LAUSD's non-action.

2. Los Angeles LGBT Center: This is a public Community Center where James volunteered and mentored other gay and lesbian youth. These records of his involvement and engagement are completely irrelevant to his claims and damages. (See Decl. of James Scott).

3. Los Angeles Youth Network: While in the foster care system James lived at this Group Home (not an educational placement as Defendant suggests) before he was bullied. This was his home at the time (similar to a college dorm or homeless shelter). These records are completely irrelevant to his claims of bullying at school, lack of protection by LAUSD and damages therefrom. (See Decl. of James Scott).

4. Penny Lane Group Home: While in the foster care system, James lived at this Group Home (not an educational placement as Defendant suggests before he enrolled at Daniel Pearl where he was bullied. This was his home (similar to a college dorm or homeless shelter). These records are completely irrelevant to his claims and damages as stated above. (See Decl. of James Scott).

5. Maurice Zeitlian, M.D.: Plaintiff objects to producing these records with unlimited time and scope. Plaintiff requests these records be narrowed to exclude any records as to group therapy/counseling, third parties and other minors. Plaintiff is requesting that, if the records are so ordered, that they be limited to during the time Plaintiff was bullied at Daniel Pearl – Fall 2013 to the present.

03/13/2015

6. Carlos Lack: Plaintiff objects to producing these records with unlimited time and scope. Plaintiff requests these records be narrowed to exclude any records as to group therapy/counseling, third parties and other minors. Plaintiff is requesting that, if the records are so ordered at all, that they be limited to during the time Plaintiff was bullied at Daniel Pearl HS-Fall 2013 to the present.

IV. LEGAL ANALYSIS

LAUSD contends that because Plaintiff is seeking emotional distress damages in his suit, they have a right to discover other emotional stressors that might have caused, or contributed to, alleged emotional injuries from his childhood, living situation or environment. They cite Code of Civil Procedure § 2017 which states: "[A]ny party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence. Discovery may relate to the claim or defense of the party seeking discovery.

Plaintiff's objections are grounded upon the constitutional right to privacy contained within Article I, section 1 of the California Constitution. Therefore, Defendant's argument relating to the scope of discovery and their alleged ability to undertake a fishing expedition misses the mark. The filing of the lawsuit does not allow unrestricted access to all species of information. Discovery of constitutionally protected information is on a par with discovery of privileged information and is more narrowly proscribed than traditional discovery. (*Britt v. Superior Court,* supra, 20 Cal.3d at pp. 852-853,143 Cal.Rptr. 695, 574 P.2d 766.)

"When the right to discovery conflicts with a privileged right, the court is required to carefully balance the right of privacy with the need for discovery. [Citations.]" (*Harris v. Superior Court* (1992) 3 Cal.App.4th 661, 665, 4 Cal.Rptr.2d 564.) Discovery may be compelled only upon a showing of a compelling public interest. (Id. at p. 664, 4 Cal.Rptr.2d 564.) In those situations where it is argued that a party waives protection by filing a lawsuit, the court must construe the concept of "waiver" narrowly and a compelling public interest is demonstrated only where the material sought is directly relevant to the litigation. (*Britt v. Superior Court*, supra, 20

Cal.3d at pp. 858-859,143 Cal.Rptr. 695, 574 P.2d 766.) The party seeking the constitutionally protected information has the burden of establishing that the information sought is directly relevant to the claims. (*Harris v. Superior Court*, supra, 3 Cal.App.4th at p. 665, 4 Cal.Rptr.2d 564).

One of the issues in *Britt v. Superior Court*, as in this case, was the compelled disclosure of psychological information sought on the theory that the action alleged emotional distress. The Supreme Court concluded that the trial court's order was overly broad and reiterated the narrow scope of discovery allowed: Defendant relies, in part, on *Lifschutz* (cited in their Motion), wherein the court stated, "Accordingly, we held in Lifschutz [.j] that 'the "automatic" waiver of privilege contemplated by [the patient-litigant exception] must be construed not as a complete waiver of the privilege but only as a limited waiver concomitant with the purposes of the exception. Under section 1016 disclosure can be in issue" [citation]; communications which are not directly relevant to those specific conditions do not fall within the terms of section 1016's exception and therefore remain privileged. Disclosure cannot be compelled with respect to other aspects of the patient-litigant's personality even though they may, in some sense, be "relevant" to the substantive issues of litigation. The patient thus is not obligated to sacrifice all privacy to seek redress for a specific mental or emotional injury; the scope of the inquiry permitted depends upon the nature of the injuries which the patient-litigant himself has brought before the court.'" (*Britt v. Superior Court*, supra, 20 Cal.3d at pp. 863-864,143 Cal.Rptr. 695,574 P.2d 766.) *Tylo v. Superior Court of Los Angeles*, 55 Cal.App4th 1370 as above particularly protects medical records such as Dr. Zeitlian's.

The same concept applies to this action. Plaintiff has tendered his psychological condition in this litigation only as it relates to the bullying and LAUSD's lack of action and protection against escalated bullying. Therefore, discovery is limited to those injuries resulting from such. Before the Defendant can obtain information regarding emotional distress from the escalated bullying after his reports of such, they must first identify the specific emotional injuries, which he claims resulted from such and then demonstrate there is a nexus between damages from LAUSD's inaction and those, which may arise out of the prior emotional distress.

Real parties have failed to do either. They merely assert the conclusion that there are other stressors that might have caused, or contributed to alleged emotional injuries, which is a true fishing expedition.

V. SUMMARY

Less obtrusive means are available to obtain the same information and/or to determine what specific information and witnesses or records are necessary. Defendant made inquiry of Plaintiff during his deposition and Plaintiff has already submitted witnesses regarding his claims. LAUSD believes Plaintiff made bullying complaints prior as if to show he is a serial complainer. Defendant's assertion of such, regardless, would only lead to a collateral matter, not relevant nor at issue. Even if he complained of bullying prior, this fact would have bearing on the acts or damages derived from the bullying complained of herein, Further, California Evidence Code § 2017(d) protects prior acts of harassment based on sex ("Plaintiff was called "tranny", "faggot") absent "specific facts showing cause for that discovery". There is no reason to have records from these entities as Defendant requests them – overbroad and/or unlikely to lead to admissible evidence.

To go back so far in Plaintiff's brief life – he was only 15 years old at the time – is intrusive, not reasonably calculated to lead to admissible evidence and is a mere fishing expedition. The "eggshell plaintiff" axiom is well grounded in law – the defendant must take the Plaintiff as they find him. The fact that he may have had a difficult childhood is not dispositive of emotional damage stemming from what occurred at LAUSD and their nonresponsiveness to his reports of bullying.

VI. CONCLUSION

The Village Family Services records from Drs. Zeitlian and Carlos Lacks should be quashed unless the Court or an expert referee, through an in-camera review, redacts those passages which may present a danger to the Plaintiff. Plaintiff specifically requests the following:

1. *Opportunities for Learning*: These educational records should be limited to his academic grades only from August 2012 to the present to examine the academic effects of the

03/13/2015

escalated bullying resulting from LAUSD's non-action. Again, Defendants already have his grades as a part of his LAUSD records and have produced them to Plaintiff.

2. *Los Angeles LGBT Center*: This is a public Community Center where James volunteered and mentored other gay and lesbian youth. These records are completely irrelevant to his claims and damages.

3. *Los Angeles Youth Network*: While in the foster care system, James lived at this Group Home (not an educational placement as Defendant suggests). This was his home (similar to a college dorm or homeless shelter or foster family). These records are completely irrelevant to his claims and damages.

4. *Penny Lane Group Home*: While in the foster care system, James lived at this Group Home (not an educational placement as Defendant suggests). This was his home (similar to a college dorm or homeless shelter). These records are completely irrelevant to his claims and damages.

5. *Maurice Zeitlian, M.D., Village Family Services* – Regarding Dr. Zeitlian's records, "Releasing records could pose psychological and/or psychosocial danger to the [plaintiff]..." (See Decl. of Dr. Deborah Hoffman). Thus, Plaintiff's counsel joins Dr. Hoffman in protecting Plaintiff from danger and asks the Court to join in protecting Plaintiff from danger by quashing Defendant's subpoenas. As an alternative, Plaintiff is asking the Court/expert referee to determine redactions to protect Plaintiff before ordering said records be produced.

6. *Carlos Lack, Village Family Services* – Regarding Carlos Lack's records, "Releasing records could pose psychological and/or psychosocial danger to the [plaintiff]..." (See Decl. of Dr. Deborah Hoffman). Thus, Plaintiff's counsel joins Dr. Hoffman in protecting Plaintiff from danger and asks the Court to join in protecting Plaintiff from danger by quashing Defendant's subpoenas. As an alternative, Plaintiff is asking the Court/expert referee to determine redactions to protect Plaintiff before producing said records.

Accordingly, for the foregoing reasons, Plaintiff respectfully requests the Court quash Defendant's subpoenas in their entirety or, in the alternative, narrow the production of records as the Court sees fit from the foster care group homes, Opportunities for Learning and the LGBT

03/13/2015

center.

Dated: March 12, 2015

ALLRED, MAROKO & GOLDBERG

By:

MARGERY N. SOMERS
Attorneys for Plaintiff James Anthony Scott

03/13/2015

03/13/2015

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DECLARATION

03/13/2015

DECLARATION OF MARGERY N. SOMERS

DECLARATION MARGERY N. SOMERS

I, Margery N. Somers, do hereby declare and state the following under penalty of perjury and if called to testify, I would and could testify truthfully hereto.

1. I am attorney at law licensed to practice before all Courts of the State of California and a member of the law firm of Allred, Maroko & Goldberg, counsel of record for Plaintiff James Anthony Scott ("Plaintiff"), in this action. I have personal knowledge of the matters contained in this Declaration, and, if called on as a witness, I could and would competently testify as to the matter contained herein.

2. Attached hereto as Exhibit "A" is a true and correct copy of Plaintiff counsel's letter to defense counsel on February 2, 2015; a meet and confer letter regarding Defendant's subpoenas inviting meet and confer discussions.

3. Attached hereto as Exhibit "B" is a true and correct copy of a meet and confer email sent to Defendant on February 5, 2015 wherein thereafter Plaintiff and defense counsel discussed the subpoenas.

4. Attached hereto as Exhibit "C" is a true and correct copy of Plaintiff counsel's emails of February 20, 21 and 23, 2015, attempting to continue meet and confer efforts, which proved unresolvable.

5. Attached hereto as Exhibit "D" are true and correct copies of Defendant's subpoenas at issue and Plaintiff's letter to entities objecting to production of records.

I attest the above signed under penalty of perjury in Los Angeles County, California on this 12th day of March 2015.

MARGERY N. SOMERS

03/13/2015

03/13/2015

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EXHIBIT A

03/13/2015

EXHIBIT A

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◊ALSO ADMITTED TO WASHINGTON DC BAR

OF COUNSEL - NEW YORK
MARIANN WANG
(212) 620-2600

February 2, 2015

Via U.S. Mail

Valerie D. Rojas, Esq.
Sedwick LLP
801 South Figueroa Street, 19th Floor
Los Angeles, CA 90017

Re: James Anthony Scott v. Los Angeles Unified School District
Your File No. 11553-000016

Dear Ms. Rojas:

REDACTED

Lastly, my interpretation of the Court's order is to narrow subpoenas upon ("and") discovering further information (through depositions, etc. as we discussed). Regardless, especially with the objection filed stating that the disclosure of certain documents are believed to cause harm to our client, I am objecting and will file a Motion to Quash on the necessary subpoenas. I do appreciate you narrowing some somewhat. However, I feel they are still overbroad, irrelevant or too violative of our client's rights.

NEW YORK OFFICE | 305 BROADWAY, SUITE 607 | NEW YORK, NEW YORK 10007
T (212) 202-2966 | FAX (212) 202-2967

As always, I appreciate your efforts to meet and confer. Thank you for agreeing to send over your unredacted documents as soon as possible.

Very truly yours,

ALLRED, MAROKO & GOLDBERG

MARGERY N. SOMERS

MS:js
Enclosure

03/13/2015

Margie Somers

From: Margie Somers
Sent: Wednesday, January 28, 2015 4:21 PM
To: sheryl.rosenberg@sedgwicklaw.com
Cc: Rojas, Valerie (Valerie.Rojas@sedgwicklaw.com); craig.barnes@sedgwicklaw.com
Subject: Our conversation

Communication per CalEvid Sec. 1152

Per our conversation:

My proposal is to go ahead with the depositions and :

You withdraw your suppoenas
I will not make a motion to quash
I will not make a motion to compel unredacted documents
Instead, we extend each other a four month postponement/deadline re: motions/supoenas

In the next four months we will mediate with an opening demand of $250,000 to begin the process. (as you know the good mediators are booked up months in advance and we have to retain experts in June adding significant cost)

I will look to see if any other documents recently received will be helpful for mediation.

You will speak to your client about the above, but understand that I will have to serve objections on the subpoenaed entities by Friday.

THANK YOU.

ALLRED MAROKO GOLDBERG
JUSTICE | INTEGRITY | REPUTATION

Margie Somers, Esq.
6300 Wilshire Boulevard, Suite 1500
Los Angeles, CA 90048
(323) 653-6530
(323) 653-1660, Facsimile
www.amglaw.com

FEB 2015

03/13/2015

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EXHIBIT B

03/13/2015

EXHIBIT B

Margie Somers

From: Margie Somers
Sent: Thursday, February 05, 2015 4:29 AM
To: Valerie Rojas
Subject: Meet & confer

Please call me to meet & confer on subpoenas.

Sent from my iPhone

03/13/2015

0371320015

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EXHIBIT C

03/13/2015

EXHIBIT C

Margie Somers

From: Margie Somers
Sent: Friday, February 20, 2015 8:39 AM
To: Rojas, Valerie (Valerie.Rojas@sedgwicklaw.com)
Subject: Meet & Confer call: Subpoenas

I'm in all morning to meet and confer (not this afternoon afterall). Also I have some med records to give you which I will do on Wednesday unless you want them mailed today.

ALLRED MAROKO GOLDBERG
JUSTICE | INTEGRITY | REPUTATION

Margie Somers, Esq.
6300 Wilshire Boulevard, Suite 1500
Los Angeles, CA 90048
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(323) 653-1660, Facsimile
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03/13/2015

Margie Somers

From: Margie Somers
Sent: Monday, February 23, 2015 3:57 PM
To: 'Rojas, Valerie'
Subject: RE: Scott v. LAUSD - RE: Narrowing of subpoenas

No, not therapy records - as I told you I am joining the institutions objection because I do not want to put my client at noticed risk of harm. I am talking about the educational records. Also, frankly, I noticed in the docs you produced that the old grades ARE included...

Margie Somers, Esq.
6300 Wilshire Boulevard, Suite 1500
Los Angeles, CA 90048
(323) 653-6530
(323) 653-1660, Facsimile
www.amglaw.com

-----Original Message-----
From: Rojas, Valerie [mailto:Valerie.Rojas@sedgwicklaw.com]
Sent: Monday, February 23, 2015 3:46 PM
To: Margie Somers
Subject: Scott v. LAUSD - RE: Narrowing of subpoenas

Margie,

Which subpoenas are you proposing the language below for? The therapy records only? If so, what is your position on the educational records?

Thank you,

Valerie D. Rojas
valerie.rojas@sedgwicklaw.com
213.615.8048 direct

Sedgwick LLP

801 S. Figueroa Street, 19th Floor
Los Angeles, CA 90017
6158048213.426.6900 phone | 213.426.6921 fax | www.sedgwicklaw.com

www.sedgwickinsurancelaw.com

-----Original Message-----
From: Margie Somers [mailto:MSomers@amglaw.com]
Sent: Saturday, February 21, 2015 8:17 AM

To: Rojas, Valerie
Subject: Narrowing of subpoenas

How about this for the subpoenaed entities?

"Pages of your records from August 2013 - January 2014 relating only to student bullying/harassment/injury and/or school personnel's response. Other page contents are to be redacted."

Sent from my iPhone

This message is CONFIDENTIAL and may contain legally privileged information intended only for the addressee. If you are not the addressee you may not use, forward, copy or disclose to anyone any information contained in this message. IF YOU RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY ALLRED, MAROKO & GOLDBERG IMMEDIATELY BY TELEPHONING THE SENDER NAMED ABOVE AT 323-653-6530. Thank you.

The information in this email is intended for the named recipients only. It may contain privileged and confidential matter. If you have received this email in error, please notify the sender immediately by replying to this email. Do not disclose the contents to anyone. Thank you.

03/13/2015

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EXHIBIT D

EXHIBIT D

03/13/2015

3 PARK PLAZA, 17TH FLOOR IRVINE, CALIFORNIA 92614-8540
www.sedgw[redacted].com 949.852.8200 phone 949.852.8282 fax

Sedgwick LLP

Anurita S. Varma
(949) 852-8200
anurita.varma@sedgwicklaw.com

January 26, 2015

First Class Mail
Custodian of Records
Dr. Maurice Zeitlin, M.D.
6736 Laurel Canyon Blvd.,
North Hollywood, California 91606

Re: Re: *James Anthony Scott, et al. v. Los Angeles Unified School District, et al.*;
Los Angeles Superior Court Case No.: BC547897
Our file No.: 11553-000016

Dear Dr. Zeitlin:

Enclosed please find an amended Deposition Subpoena for Production of Business Records pursuant to the Court's order on January 9, 2015. A copy of the Court's order is attached. Please contact Sheryl Rosenberg at (213) 615-8032 should you have any questions.

Very truly yours,

Anurita S. Varma
Sedgwick LLP

Enclosure

03/13/2015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Valerie Rojas (Bar No. 180041) / Anurita S. Varma (Bar No. 279486)
Sheryl Rosenberg (Bar No. 232862)
Sedgwick LLP, 801 S. Figueroa St., 19th Fl.
Los Angeles, CA 90017
TELEPHONE NO.: 213-615-8032 FAX NO.: 213-426-6921
E-MAIL ADDRESS: sheryl.rosenberg@sedgwicklaw.com
ATTORNEY FOR (Name): Los Angeles Unified School District

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF **Los Angeles**
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS:
CITY AND ZIP CODE: Los Angeles, CA, 90012
BRANCH NAME: Stanley Mosk Courthouse

PLAINTIFF/PETITIONER: James Anthony Scott, et al.
DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.

DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

CASE NUMBER: BC 547897

THE PEOPLE OF THE STATE OF CALIFORNIA, TO ***(name, address, and telephone number of deponent, if known):***
Custodian of Records: Dr. Maurice Zeitlin, M.D., 6736 Laurel Canyon Bl, North Hollywood, CA 91606, (818) 755-8786

1. **YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:**

To *(name of deposition officer)*: Pike Photocopy, Inc., X395 (310) 397-0400
On *(date)*: February 17, 2015 At *(time)*: 10:00 a.m.
Location *(address)*: 4221 S. Sepulveda Blvd., Culver City, CA 90230

Do not release the requested records to the deposition officer prior to the date and time stated above.

a. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.

b. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).

c. ☒ by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.

2. *The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.*

3. The records to be produced are described as follows *(if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified):*

☒ Continued on Attachment 3.

4. **IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, *AND* CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.**

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: January 26, 2015

Anurita S. Varma
(TYPE OR PRINT NAME)

▶ Anu S. Va
(SIGNATURE OF PERSON ISSUING SUBPOENA)

Atty for Def. Los Angeles Unified School District
(TITLE)

(Proof of service on reverse)

PLAINTIFF/PETITIONER: James Anthony Scott, et al.	CASE NUMBER: BC 547897
DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.	

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

1. I served this *Deposition Subpoena for Production of Business Records* by personally delivering a copy to the person served as follows:
   a. Person served *(name)*:
   b. Address where served:
   c. Date of delivery:
   d. Time of delivery:
   e. (1) ☐ Witness fees were paid.
      Amount:..... $ _____
      (2) ☐ Copying fees were paid.
      Amount:..... $ _____
   f. Fee for service:..... $ _____
2. I received this subpoena for service on *(date)*:
3. Person serving:
   a. ☐ Not a registered California process server.
   b. ☐ California sheriff or marshal.
   c. ☐ Registered California process server.
   d. ☐ Employee or independent contractor of a registered California process server.
   e. ☐ Exempt from registration under Business and Professions Code section 22350(b).
   f. ☐ Registered professional photocopier.
   g. ☐ Exempt from registration under Business and Professions Code section 22451.
   h. Name, address, telephone number, and, if applicable, county of registration and number:

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

Date:

▶ _____
(SIGNATURE)

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

▶ _____
(SIGNATURE)

American LegalNet, Inc.
www.FormsWorkFlow.com

James Anthony Scott, et al. v. Los Angeles Unified, et al.

Court Case No.: BC547897

ATTACHMENT "3"

Scott, James Anthony

D.O.B.: 09/03/98

Any and ALL RECORDS for treatment and/or consultation pertaining to the care, treatment and/or examination of the above-named person from September 1, 2013 to the Present, including, but not limited to, all office, emergency room, in-patient & outpatient charts, patient histories, counseling, diagnostic studies, itemized billing to include payments, adjustments, and writeoffs, disability, physical therapy, prescriptions, extended living care facility, psychiatric history, and records relating to relationships with other individuals including family members, friends and peers, bullying, emotional distress, mental disorders, mental illnesses, fears, general mood and emotional state.

Note: To the extent the records requested in this Attachment identify minors other than the above-named person, please redact the identities of those minors.

03/13/2015

36

Superior Court of California

County of Los Angeles

Department 36

FILED
Superior Court of California
County of Los Angeles
JAN 09 2015
Sherri R. Carter, Executive Officer/Clerk
By Cher Mason Deputy

SCOTT, Plaintiff(s), v. LOS ANGELES UNIFIED SCHOOL DISTRICT, Defendant(s).	Case No.: BC547897 Hearing Date: 1/9/15 **RULING RE:** DEFENDANT LOS ANGELES UNIFIED SCHOOL DISTRICT'S MOTION TO COMPEL SUBPOENAED ENTITIES TO PRODUCE RECORDS.

The motion is denied, without prejudice to serve narrowly tailored subpoenas, and to obtain information Plaintiff volunteers to provide.

Moving party has not evidenced that all requested records are relevant, due to not identifying all content of all records. Instead, moving party is arguing in generalities about relevance, and speculating that specific, relevant information may be included within the broad scope of the requests (e.g., reply, 7:11 ("Records from these group homes may reflect....")). [Emphasis added.]

"Mere speculation as to the possibility that some portion of the records might be relevant to some substantive issue does not suffice" for showing direct relevance as to private information sought in discovery. Davis v. Sup. Ct. (1992) 7 Cal. App. 4th 1008, 1017-20 (directing trial court to grant motion to quash as to discovery request that was not narrowly drawn to enable the court to evaluate the appropriate extent of disclosure). Absent showings of direct relevance, compelling

need, and unavailability of alternative sources, a trial court only could find that a privacy interest prevails. Ombudsman Services of No. Cal. v. Sup. Ct. (2007) 154 Cal.App.4th 1233, 1251. Although discovery of other stressors may be relevant, the party seeking private information has the burden to show that the information is directly relevant to the claims, by identifying the specific emotional injuries claimed, and showing a nexus between the claimed damages and distress or other harm which may be shown by private information. *E.g.*, Brenda L. v. Sup. Ct. (1998) 65 Cal. App. 4th 794, 801-802.

Patients have a reasonable expectation of privacy as to their medical information that is not directly relevant to a particular condition the patient has placed in issue. California Consumer Health Care Council v. Kaiser Foundation Health Plan, Inc. (2006) 142 Cal. App. 4th 21, 31.

"In those situations where it is argued that a party waives protection by filing a lawsuit, the court must construe the concept of 'waiver' narrowly and a compelling public interest is demonstrated only where the material sought is directly relevant to the litigation." Tylo v. Sup. Ct. (1997) 55 Cal. App. 4th 1379, 1387. "[E]ven when a plaintiff files an action that places his or her medical records at issue, waivers of constitutional rights are narrowly construed and not lightly found." Bearman v. Sup. Ct. (2004) 117 Cal. App. 4th 463, 473. Waivers of constitutional rights, including privacy, are not lightly found, but are possible, depending on the circumstances. Heda v. Sup. Ct. (1990) 225 Cal. App. 3d 525, 530. *But see* Weil & Brown, Civ. Pro. Before Trial (The Rutter Group 2014) ¶8:319.2 (citing Boler v. Sup. Ct. (1987) 201 Cal.App.3d 467, 472. Implied waiver occurs when the objecting party places directly in issue privileged communications, but not when the party seeking discovery has placed them in issue by their filed documents. Aetna Casualty & Sur. Co. v. Sup. Ct. (1984) 153 Cal. App. 3d 467, 477.

Dated: 1/9/15

Gregory W. Alarcon

Gregory Alarcon
Superior Court Judge

ATTORNEYS AT LAW
3 PARK PLAZA, 17T[illegible]OR IRVINE, CALIFORNIA 92614-8540
www.sedgwicklaw.com 949.852.8200 phone 949.852.8282 fax

Sedgwick LLP

Anurita S. Varma
(949) 852-8200
anurita.varma@sedgwicklaw.com

January 26, 2015

First Class Mail
Custodian of Records
Lifeworks, Los Angeles LGBT Center
1125 N. McCadden Place
Los Angeles, California 90038

Re: *James Anthony Scott, et al. v. Los Angeles Unified School District, et al.*;
Los Angeles Superior Court Case No.: BC547897
Our file No.: 11553-000016

Custodian of Records:

Enclosed please find an amended Deposition Subpoena for Production of Business Records pursuant to the Court's order on January 9, 2015. A copy of the Court's order is attached. Please contact Sheryl Rosenberg at (213) 615-8032 should you have any questions.

Very truly yours,

Anurita S. Varma

Anurita S. Varma
Sedgwick LLP

Enclosure

03/13/2015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Valerie Rojas (Bar No. 180041) / Anurita S. Varma (Bar No. 279486)
Sheryl Rosenberg (Bar No. 232862)
Sedgwick LLP, 801 S. Figueroa St., 19th Fl.
Los Angeles, CA 90017
TELEPHONE NO.: 213-615-8032 FAX NO.: 213-426-6921
E-MAIL ADDRESS: sheryl.rosenberg@sedgwicklaw.com
ATTORNEY FOR (Name): Los Angeles Unified School District

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS:
CITY AND ZIP CODE: Los Angeles, CA, 90012
BRANCH NAME: Stanley Mosk Courthouse

PLAINTIFF/PETITIONER: James Anthony Scott, et al.
DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.

DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

CASE NUMBER: BC 547897

THE PEOPLE OF THE STATE OF CALIFORNIA, TO ***(name, address, and telephone number of deponent, if known):***
Custodian of Records: Lifeworks, Los Angeles LGBT Center, 1125 N. McCadden Place, Los Angeles, CA 90038, 323-860-7373

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To *(name of deposition officer)*: Pike Photocopy, Inc., X395 (310) 397-0400
On *(date)*: February 17, 2015 At *(time)*: 10:00 a.m.
Location *(address)*: 4221 S. Sepulveda Blvd., Culver City, CA 90230

Do not release the requested records to the deposition officer prior to the date and time stated above.

a. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.

b. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).

c. ☒ by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.

2. *The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.*

3. The records to be produced are described as follows *(if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified):*

☒ Continued on Attachment 3.

4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, *AND* CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: January 26, 2015

Anurita S. Varma
(TYPE OR PRINT NAME)

▶ Anurita S. Varma
(SIGNATURE OF PERSON ISSUING SUBPOENA)

Atty for Def. Los Angeles Unified School District
(TITLE)

(Proof of service on reverse)

PLAINTIFF/PETITIONER: James Anthony Scott, et al. DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.	CASE NUMBER: BC 547897

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

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   a. Person served *(name)*:
   b. Address where served:
   c. Date of delivery:
   d. Time of delivery:
   e. (1) ☐ Witness fees were paid.
      Amount:..... $ _____
      (2) ☐ Copying fees were paid.
      Amount:..... $ _____
   f. Fee for service:..... $ _____
2. I received this subpoena for service on *(date)*:
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   c. ☐ Registered California process server.
   d. ☐ Employee or independent contractor of a registered California process server.
   e. ☐ Exempt from registration under Business and Professions Code section 22350(b).
   f. ☐ Registered professional photocopier.
   g. ☐ Exempt from registration under Business and Professions Code section 22451.
   h. Name, address, telephone number, and, if applicable, county of registration and number:

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

Date:

▶ _____
(SIGNATURE)

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

▶ _____
(SIGNATURE)

American LegalNet, Inc.
www.FormsWorkFlow.com

James Anthony Scott, et al. v. Los Angeles Unified, et al.

Court Case No.: BC547897

ATTACHMENT "3"

Scott, James Anthony

D.O.B.: 09/03/98

Any and all documents, from January 1, 2011, to the Present, which evidence, reflect, discuss, mention, or comment upon the above-named person, including, but not limited to, those related to educational records, attendance, disciplinary actions, involvement in academic and non-academic activities, relationships with other individuals, bullying, emotional distress, mental disorders, mental illnesses, and general mood and emotional state.

Note: To the extent the records requested in this Attachment identify minors other than the above-named person, please redact the identities of those minors.

03/13/2015

36

Superior Court of California

County of Los Angeles

Department 36

FILED
Superior Court of California
County of Los Angeles
JAN 09 2015
Sherri R. Carter, Executive Officer/Clerk
By Cher Mason Deputy

SCOTT, Plaintiff(s), v. LOS ANGELES UNIFIED SCHOOL DISTRICT, Defendant(s).	Case No.: BC547897 Hearing Date: 1/9/15 **RULING RE:** DEFENDANT LOS ANGELES UNIFIED SCHOOL DISTRICT'S MOTION TO COMPEL SUBPOENAED ENTITIES TO PRODUCE RECORDS.

The motion is denied, without prejudice to serve narrowly tailored subpoenas, and to obtain information Plaintiff volunteers to provide.

Moving party has not evidenced that all requested records are relevant, due to not identifying all content of all records. Instead, moving party is arguing in generalities about relevance, and speculating that specific, relevant information may be included within the broad scope of the requests (e.g., reply, 7:11 ("Records from these group homes may reflect....")). [Emphasis added.]

"Mere speculation as to the possibility that some portion of the records might be relevant to some substantive issue does not suffice" for showing direct relevance as to private information sought in discovery. Davis v. Sup. Ct. (1992) 7 Cal. App. 4th 1008, 1017-20 (directing trial court to grant motion to quash as to discovery request that was not narrowly drawn to enable the court to evaluate the appropriate extent of disclosure). Absent showings of direct relevance, compelling

need, and unavailability of alternative sources, a trial court only could find that a privacy interest prevails. Ombudsman Services of No. Cal. v. Sup. Ct. (2007) 154 Cal.App.4th 1233, 1251. Although discovery of other stressors may be relevant, the party seeking private information has the burden to show that the information is directly relevant to the claims, by identifying the specific emotional injuries claimed, and showing a nexus between the claimed damages and distress or other harm which may be shown by private information. *E.g.*, Brenda L. v. Sup. Ct. (1998) 65 Cal. App. 4th 794, 801-802.

Patients have a reasonable expectation of privacy as to their medical information that is not directly relevant to a particular condition the patient has placed in issue. California Consumer Health Care Council v. Kaiser Foundation Health Plan, Inc. (2006) 142 Cal. App. 4th 21, 31.

"In those situations where it is argued that a party waives protection by filing a lawsuit, the court must construe the concept of 'waiver' narrowly and a compelling public interest is demonstrated only where the material sought is directly relevant to the litigation." Tylo v. Sup. Ct. (1997) 55 Cal. App. 4th 1379, 1387. "[E]ven when a plaintiff files an action that places his or her medical records at issue, waivers of constitutional rights are narrowly construed and not lightly found." Bearman v. Sup. Ct. (2004) 117 Cal. App. 4th 463, 473. Waivers of constitutional rights, including privacy, are not lightly found, but are possible, depending on the circumstances. Heda v. Sup. Ct. (1990) 225 Cal. App. 3d 525, 530. *But see* Weil & Brown, Civ. Pro. Before Trial (The Rutter Group 2014) ¶8:319.2 (citing Boler v. Sup. Ct. (1987) 201 Cal.App.3d 467, 472. Implied waiver occurs when the objecting party places directly in issue privileged communications, but not when the party seeking discovery has placed them in issue by their filed documents. Aetna Casualty & Sur. Co. v. Sup. Ct. (1984) 153 Cal. App. 3d 467, 477.

Dated: 1/9/15

Gregory W. Alarcon

Gregory Alarcon
Superior Court Judge

03/13/2015

ATTORNEYS AT LAW
3 PARK PLAZA, 17T[illegible]OR IRVINE, CALIFORNIA 92614-8540
www.sedgwicklaw.com 949.852.8200 phone 949.852.8282 fax

Sedgwick LLP

Anurita S. Varma
(949) 852-8200
anurita.varma@sedgwicklaw.com

January 26, 2015

First Class Mail
Custodian of Records
Los Angeles Youth Network
2471 N. Beachwood Dr.,
Los Angeles, California 90038

Re: *James Anthony Scott, et al. v. Los Angeles Unified School District, et al.*;
Los Angeles Superior Court Case No.: BC547897
Our file No.: 11553-000016

Custodian of Records:

Enclosed please find an amended Deposition Subpoena for Production of Business Records pursuant to the Court's order on January 9, 2015. A copy of the Court's order is attached. Please contact Sheryl Rosenberg at (213) 615-8032 should you have any questions.

Very truly yours,

Anurita S. Varma

Anurita S. Varma
Sedgwick LLP

Enclosure

03/13/2015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
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Sheryl Rosenberg (Bar No. 232862)
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Los Angeles, CA 90017
TELEPHONE NO.: 213-615-8032 FAX NO.: 213-426-6921
E-MAIL ADDRESS: sheryl.rosenberg@sedgwicklaw.com
ATTORNEY FOR (Name): Los Angeles Unified School District

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PLAINTIFF/PETITIONER: James Anthony Scott, et al.
DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.

DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

CASE NUMBER: BC 547897

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Custodian of Records: Los Angeles Youth Network, 2471 N. Beachwood Dr., Los Angeles, CA 90038, 323-962-0430

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Date issued: January 26, 2015

Anurita S. Varma
(TYPE OR PRINT NAME)

▶ Anurita S. Varma
(SIGNATURE OF PERSON ISSUING SUBPOENA)

Atty for Def. Los Angeles Unified School District
(TITLE)

(Proof of service on reverse)

PLAINTIFF/PETITIONER: James Anthony Scott, et al. DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.	CASE NUMBER: BC 547897

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   g. ☐ Exempt from registration under Business and Professions Code section 22451.
   h. Name, address, telephone number, and, if applicable, county of registration and number:

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

Date:

▶ _____
(SIGNATURE)

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

▶ _____
(SIGNATURE)

American LegalNet, Inc.
www.FormsWorkFlow.com

James Anthony Scott, et al. v. Los Angeles Unified, et al.

Court Case No.: BC547897

ATTACHMENT "3"

Scott, James Anthony

D.O.B.: 09/03/98

Any and all documents, from January 1, 2013, to the Present, which evidence, reflect, discuss, mention, or comment upon the above-named person, including, but not limited to, those related to educational records, attendance, disciplinary actions, involvement in academic and non-academic activities, relationships with other individuals, bullying, emotional distress, mental disorders, mental illnesses, and general mood and emotional state.

Note: To the extent the records requested in this Attachment identify minors other than the above-named person, please redact the identities of those minors.

03/13/2015

36

Superior Court of California

County of Los Angeles

Department 36

FILED
Superior Court of California
County of Los Angeles
JAN 09 2015
Sherri R. Carter, Executive Officer/Clerk
By Cher Mason Deputy

SCOTT,

Plaintiff(s),

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT,

Defendant(s).

Case No.: BC547897

Hearing Date: 1/9/15

RULING RE:
DEFENDANT LOS ANGELES UNIFIED SCHOOL DISTRICT'S MOTION TO COMPEL SUBPOENAED ENTITIES TO PRODUCE RECORDS.

The motion is denied, without prejudice to serve narrowly tailored subpoenas, and to obtain information Plaintiff volunteers to provide.

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need, and unavailability of alternative sources, a trial court only could find that a privacy interest prevails. Ombudsman Services of No. Cal. v. Sup. Ct. (2007) 154 Cal.App.4th 1233, 1251. Although discovery of other stressors may be relevant, the party seeking private information has the burden to show that the information is directly relevant to the claims, by identifying the specific emotional injuries claimed, and showing a nexus between the claimed damages and distress or other harm which may be shown by private information. *E.g.*, Brenda L. v. Sup. Ct. (1998) 65 Cal. App. 4th 794, 801-802.

Patients have a reasonable expectation of privacy as to their medical information that is not directly relevant to a particular condition the patient has placed in issue. California Consumer Health Care Council v. Kaiser Foundation Health Plan, Inc. (2006) 142 Cal. App. 4th 21, 31.

"In those situations where it is argued that a party waives protection by filing a lawsuit, the court must construe the concept of 'waiver' narrowly and a compelling public interest is demonstrated only where the material sought is directly relevant to the litigation." Tylo v. Sup. Ct. (1997) 55 Cal. App. 4th 1379, 1387. "[E]ven when a plaintiff files an action that places his or her medical records at issue, waivers of constitutional rights are narrowly construed and not lightly found." Bearman v. Sup. Ct. (2004) 117 Cal. App. 4th 463, 473. Waivers of constitutional rights, including privacy, are not lightly found, but are possible, depending on the circumstances. Heda v. Sup. Ct. (1990) 225 Cal. App. 3d 525, 530. *But see* Weil & Brown, Civ. Pro. Before Trial (The Rutter Group 2014) ¶8:319.2 (citing Boler v. Sup. Ct. (1987) 201 Cal.App.3d 467, 472. Implied waiver occurs when the objecting party places directly in issue privileged communications, but not when the party seeking discovery has placed them in issue by their filed documents. Aetna Casualty & Sur. Co. v. Sup. Ct. (1984) 153 Cal. App. 3d 467, 477.

Dated: 1/9/15

Gregory W. Alarcon

Gregory Alarcon
Superior Court Judge

03/13/2015

ATTORNEYS AT LAW
3 PARK PLAZA, 17T[illegible]OR · IRVINE, CALIFORNIA 92614-8540
www.sedgwicklaw.com · 949.852.8200 *phone* 949.852.8282 *fax*

Sedgwick LLP

Anurita S. Varma
(949) 852-8200
anurita.varma@sedgwicklaw.com

January 26, 2015

First Class Mail
Custodian of Records
Mr. Carlos Lack
6736 Laurel Canyon Boulevard
North Hollywood, California 91606

Re: *James Anthony Scott, et al. v. Los Angeles Unified School District, et al.*;
Los Angeles Superior Court Case No.: BC547897
Our file No.: 11553-000016

Dear Mr. Lack:

Enclosed please find an amended Deposition Subpoena for Production of Business Records pursuant to the Court's order on January 9, 2015. A copy of the Court's order is attached. Please contact Sheryl Rosenberg at (213) 615-8032 should you have any questions.

Very truly yours,

Anurita S. Varma
Sedgwick LLP

Enclosure

03/13/2015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Valerie Rojas (Bar No. 180041) / Anurita S. Varma (Bar No. 279486)
Sheryl Rosenberg (Bar No. 232862)
Sedgwick LLP, 801 S. Figueroa St., 19th Fl.
Los Angeles, CA 90017
TELEPHONE NO.: 213-615-8032 FAX NO.: 213-426-6921
E-MAIL ADDRESS: sheryl.rosenberg@sedgwicklaw.com
ATTORNEY FOR (Name): Los Angeles Unified School District

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF **Los Angeles**
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS:
CITY AND ZIP CODE: Los Angeles, CA, 90012
BRANCH NAME: Stanley Mosk Courthouse

PLAINTIFF/PETITIONER: James Anthony Scott, et al.
DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.

DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

CASE NUMBER: BC 547897

THE PEOPLE OF THE STATE OF CALIFORNIA, TO ***(name, address, and telephone number of deponent, if known):***
Custodian of Records: Mr. Carlos Lack, 6736 Laurel Canyon Bl, North Hollywood, CA 91606, (818) 755-8786

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To *(name of deposition officer)*: Pike Photocopy, Inc., X395 (310) 397-0400
On *(date)*: February 17, 2015 At *(time)*: 10:00 a.m.
Location *(address)*: 4221 S. Sepulveda Blvd., Culver City, CA 90230

Do not release the requested records to the deposition officer prior to the date and time stated above.

a. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.

b. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).

c. ☒ by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.

2. *The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.*

3. The records to be produced are described as follows *(if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified):*

☒ Continued on Attachment 3.

4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, *AND* CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: January 26, 2015

Anurita S. Varma
(TYPE OR PRINT NAME)

▶ Anu S. Va
(SIGNATURE OF PERSON ISSUING SUBPOENA)

Atty for Def. Los Angeles Unified School District
(TITLE)

(Proof of service on reverse)

PLAINTIFF/PETITIONER: James Anthony Scott, et al. DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.	CASE NUMBER: BC 547897

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

1. I served this *Deposition Subpoena for Production of Business Records* by personally delivering a copy to the person served as follows:
   a. Person served *(name)*:
   b. Address where served:
   c. Date of delivery:
   d. Time of delivery:
   e. (1) ☐ Witness fees were paid.
      Amount:..... $ _____
      (2) ☐ Copying fees were paid.
      Amount:..... $ _____
   f. Fee for service:..... $ _____
2. I received this subpoena for service on *(date)*:
3. Person serving:
   a. ☐ Not a registered California process server.
   b. ☐ California sheriff or marshal.
   c. ☐ Registered California process server.
   d. ☐ Employee or independent contractor of a registered California process server.
   e. ☐ Exempt from registration under Business and Professions Code section 22350(b).
   f. ☐ Registered professional photocopier.
   g. ☐ Exempt from registration under Business and Professions Code section 22451.
   h. Name, address, telephone number, and, if applicable, county of registration and number:

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

Date:

▶ _____
(SIGNATURE)

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

▶ _____
(SIGNATURE)

American LegalNet, Inc.
www.FormsWorkFlow.com

James Anthony Scott, et al. v. Los Angeles Unified, et al.

Court Case No.: BC547897

ATTACHMENT "3"

Scott, James Anthony

D.O.B.: 09/03/98

Any and ALL RECORDS for treatment and/or consultation pertaining to the care, treatment and/or examination of the above-named person from September 1, 2013 to the Present, including, but not limited to, all office, emergency room, in-patient & outpatient charts, patient histories, counseling, diagnostic studies, itemized billing to include payments, adjustments, and writeoffs, disability, physical therapy, prescriptions, extended living care facility, psychiatric history, and records relating to relationships with other individuals including family members, friends and peers, bullying, emotional distress, mental disorders, mental illnesses, fears, general mood and emotional state.

Note: To the extent the records requested in this Attachment identify minors other than the above-named person, please redact the identities of those minors.

03/13/2015

36

Superior Court of California

County of Los Angeles

Department 36

FILED
Superior Court of California
County of Los Angeles
JAN 09 2015
Sherri R. Carter, Executive Officer/Clerk
By Cher Mason Deputy

SCOTT, Plaintiff(s), v. LOS ANGELES UNIFIED SCHOOL DISTRICT, Defendant(s).	Case No.: BC547897 Hearing Date: 1/9/15 **RULING RE:** DEFENDANT LOS ANGELES UNIFIED SCHOOL DISTRICT'S MOTION TO COMPEL SUBPOENAED ENTITIES TO PRODUCE RECORDS.

The motion is denied, without prejudice to serve narrowly tailored subpoenas, and to obtain information Plaintiff volunteers to provide.

Moving party has not evidenced that all requested records are relevant, due to not identifying all content of all records. Instead, moving party is arguing in generalities about relevance, and speculating that specific, relevant information may be included within the broad scope of the requests (e.g., reply, 7:11 ("Records from these group homes may reflect....")). [Emphasis added.]

"Mere speculation as to the possibility that some portion of the records might be relevant to some substantive issue does not suffice" for showing direct relevance as to private information sought in discovery. Davis v. Sup. Ct. (1992) 7 Cal. App. 4th 1008, 1017-20 (directing trial court to grant motion to quash as to discovery request that was not narrowly drawn to enable the court to evaluate the appropriate extent of disclosure). Absent showings of direct relevance, compelling

need, and unavailability of alternative sources, a trial court only could find that a privacy interest prevails. Ombudsman Services of No. Cal. v. Sup. Ct. (2007) 154 Cal.App.4th 1233, 1251. Although discovery of other stressors may be relevant, the party seeking private information has the burden to show that the information is directly relevant to the claims, by identifying the specific emotional injuries claimed, and showing a nexus between the claimed damages and distress or other harm which may be shown by private information. *E.g.*, Brenda L. v. Sup. Ct. (1998) 65 Cal. App. 4th 794, 801-802.

Patients have a reasonable expectation of privacy as to their medical information that is not directly relevant to a particular condition the patient has placed in issue. California Consumer Health Care Council v. Kaiser Foundation Health Plan, Inc. (2006) 142 Cal. App. 4th 21, 31.

"In those situations where it is argued that a party waives protection by filing a lawsuit, the court must construe the concept of 'waiver' narrowly and a compelling public interest is demonstrated only where the material sought is directly relevant to the litigation." Tylo v. Sup. Ct. (1997) 55 Cal. App. 4th 1379, 1387. "[E]ven when a plaintiff files an action that places his or her medical records at issue, waivers of constitutional rights are narrowly construed and not lightly found." Bearman v. Sup. Ct. (2004) 117 Cal. App. 4th 463, 473. Waivers of constitutional rights, including privacy, are not lightly found, but are possible, depending on the circumstances. Heda v. Sup. Ct. (1990) 225 Cal. App. 3d 525, 530. *But see* Weil & Brown, Civ. Pro. Before Trial (The Rutter Group 2014) ¶8:319.2 (citing Boler v. Sup. Ct. (1987) 201 Cal.App.3d 467, 472. Implied waiver occurs when the objecting party places directly in issue privileged communications, but not when the party seeking discovery has placed them in issue by their filed documents. Aetna Casualty & Sur. Co. v. Sup. Ct. (1984) 153 Cal. App. 3d 467, 477.

Dated: 1/9/15

Gregory W. Alarcon

Gregory Alarcon
Superior Court Judge

ATTORNEYS AT LAW
3 PARK PLAZA, 17 FLOOR IRVINE, CALIFORNIA 92614-8540
www.sedgwicklaw.com 949.852.8200 phone 949.852.8282 fax

Sedgwick LLP

Anurita S. Varma
(949) 852-8200
anurita.varma@sedgwicklaw.com

January 26, 2015

First Class Mail
Custodian of Records
Opportunities For Learning
1160 Commerce Center Dr.,
Lancaster, California 93534

Re: *James Anthony Scott, et al. v. Los Angeles Unified School District, et al.*;
Los Angeles Superior Court Case No.: BC547897
Our file No.: 11553-000016

Custodian of Records:

Enclosed please find an amended Deposition Subpoena for Production of Business Records pursuant to the Court's order on January 9, 2015. A copy of the Court's order is attached. Please contact Sheryl Rosenberg at (213) 615-8032 should you have any questions.

Very truly yours,

Anurita S. Varma

Anurita S. Varma
Sedgwick LLP

Enclosure

03/13/2015

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address)*:
Valerie Rojas (Bar No. 180041) / Anurita S. Varma (Bar No. 279486)
Sheryl Rosenberg (Bar No. 232862)
Sedgwick LLP, 801 S. Figueroa St., 19th Fl.
Los Angeles, CA 90017
TELEPHONE NO.: 213-615-8032 FAX NO.: 213-426-6921
E-MAIL ADDRESS: sheryl.rosenberg@sedgwicklaw.com
ATTORNEY FOR *(Name)*: Los Angeles Unified School District

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF **Los Angeles**
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS:
CITY AND ZIP CODE: Los Angeles, CA, 90012
BRANCH NAME: Stanley Mosk Courthouse

PLAINTIFF/PETITIONER: James Anthony Scott, et al.
DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.

DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

CASE NUMBER: BC 547897

THE PEOPLE OF THE STATE OF CALIFORNIA, TO *(name, address, and telephone number of deponent, if known)*:
Custodian of Records: Opportunities For Learning, 1160 Commerce Center Dr., Lancaster, CA 93534, (661) 951-3646

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To *(name of deposition officer)*: Pike Photocopy, Inc., X395 (310) 397-0400
On *(date)*: February 17, 2015 At *(time)*: 10:00 a.m.
Location *(address)*: 4221 S. Sepulveda Blvd., Culver City, CA 90230

Do not release the requested records to the deposition officer prior to the date and time stated above.

a. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.

b. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).

c. ☒ by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.

2. *The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.*

3. The records to be produced are described as follows *(if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified)*:

☒ Continued on Attachment 3.

4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, *AND* CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: January 26, 2015

Anurita S. Varma
(TYPE OR PRINT NAME)

▶ Anu S. Va
(SIGNATURE OF PERSON ISSUING SUBPOENA)

Atty for Def. Los Angeles Unified School District
(TITLE)

(Proof of service on reverse)

Form Adopted for Mandatory Use
Judicial Council of California
SUBP-010 [Rev. January 1, 2012]

Code of Civil Procedure, §§ 2020.410–2020.440;
Government Code, § 68097.1
www.courts.ca.gov

PLAINTIFF/PETITIONER: James Anthony Scott, et al. DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.	CASE NUMBER: BC 547897

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

1. I served this *Deposition Subpoena for Production of Business Records* by personally delivering a copy to the person served as follows:
   a. Person served *(name)*:
   b. Address where served:
   c. Date of delivery:
   d. Time of delivery:
   e. (1) ☐ Witness fees were paid.
      Amount:..... $ _____
      (2) ☐ Copying fees were paid.
      Amount:..... $ _____
   f. Fee for service:..... $ _____
2. I received this subpoena for service on *(date)*:
3. Person serving:
   a. ☐ Not a registered California process server.
   b. ☐ California sheriff or marshal.
   c. ☐ Registered California process server.
   d. ☐ Employee or independent contractor of a registered California process server.
   e. ☐ Exempt from registration under Business and Professions Code section 22350(b).
   f. ☐ Registered professional photocopier.
   g. ☐ Exempt from registration under Business and Professions Code section 22451.
   h. Name, address, telephone number, and, if applicable, county of registration and number:

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

Date:

▶ _____
(SIGNATURE)

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

▶ _____
(SIGNATURE)

American LegalNet, Inc.
www.FormsWorkFlow.com

James Anthony Scott, et al. v. Los Angeles Unified, et al.

Court Case No.: BC547897

ATTACHMENT "3"

Scott, James Anthony

D.O.B.: 09/03/98

Any and all documents, from January 1, 2010, to the Present, which evidence, reflect, discuss, mention, or comment upon the above-named person, including, but not limited to, those related to educational records, attendance, disciplinary actions, involvement in academic and non-academic activities, relationships with other individuals, bullying, emotional distress, mental disorders, mental illnesses, and general mood and emotional state.

Note: To the extent the records requested in this Attachment identify minors other than the above-named person, please redact the identities of those minors.

03/13/2015

36

Superior Court of California

County of Los Angeles

Department 36

FILED
Superior Court of California
County of Los Angeles
JAN 09 2015
Sherri R. Carter, Executive Officer/Clerk
By Cher Mason Deputy

SCOTT,

Plaintiff(s),

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT,

Defendant(s).

Case No.: BC547897

Hearing Date: 1/9/15

RULING RE:
DEFENDANT LOS ANGELES UNIFIED SCHOOL DISTRICT'S MOTION TO COMPEL SUBPOENAED ENTITIES TO PRODUCE RECORDS.

The motion is denied, without prejudice to serve narrowly tailored subpoenas, and to obtain information Plaintiff volunteers to provide.

Moving party has not evidenced that all requested records are relevant, due to not identifying all content of all records. Instead, moving party is arguing in generalities about relevance, and speculating that specific, relevant information may be included within the broad scope of the requests (e.g., reply, 7:11 ("Records from these group homes may reflect....")). [Emphasis added.]

"Mere speculation as to the possibility that some portion of the records might be relevant to some substantive issue does not suffice" for showing direct relevance as to private information sought in discovery. Davis v. Sup. Ct. (1992) 7 Cal. App. 4th 1008, 1017-20 (directing trial court to grant motion to quash as to discovery request that was not narrowly drawn to enable the court to evaluate the appropriate extent of disclosure). Absent showings of direct relevance, compelling

need, and unavailability of alternative sources, a trial court only could find that a privacy interest prevails. Ombudsman Services of No. Cal. v. Sup. Ct. (2007) 154 Cal.App.4th 1233, 1251. Although discovery of other stressors may be relevant, the party seeking private information has the burden to show that the information is directly relevant to the claims, by identifying the specific emotional injuries claimed, and showing a nexus between the claimed damages and distress or other harm which may be shown by private information. *E.g.*, Brenda L. v. Sup. Ct. (1998) 65 Cal. App. 4th 794, 801-802.

Patients have a reasonable expectation of privacy as to their medical information that is not directly relevant to a particular condition the patient has placed in issue. California Consumer Health Care Council v. Kaiser Foundation Health Plan, Inc. (2006) 142 Cal. App. 4th 21, 31.

"In those situations where it is argued that a party waives protection by filing a lawsuit, the court must construe the concept of 'waiver' narrowly and a compelling public interest is demonstrated only where the material sought is directly relevant to the litigation." Tylo v. Sup. Ct. (1997) 55 Cal. App. 4th 1379, 1387. "[E]ven when a plaintiff files an action that places his or her medical records at issue, waivers of constitutional rights are narrowly construed and not lightly found." Bearman v. Sup. Ct. (2004) 117 Cal. App. 4th 463, 473. Waivers of constitutional rights, including privacy, are not lightly found, but are possible, depending on the circumstances. Heda v. Sup. Ct. (1990) 225 Cal. App. 3d 525, 530. *But see* Weil & Brown, Civ. Pro. Before Trial (The Rutter Group 2014) ¶8:319.2 (citing Boler v. Sup. Ct. (1987) 201 Cal.App.3d 467, 472. Implied waiver occurs when the objecting party places directly in issue privileged communications, but not when the party seeking discovery has placed them in issue by their filed documents. Aetna Casualty & Sur. Co. v. Sup. Ct. (1984) 153 Cal. App. 3d 467, 477.

Dated: 1/9/15

Gregory W. Alarcon

Gregory Alarcon
Superior Court Judge

03/13/2015

ATTORNEYS AT LAW
3 PARK PLAZA, 17[illegible]OOR IRVINE, CALIFORNIA 92614-8540
www.sedgwicklaw.com 949.852.8200 phone 949.852.8282 fax

Sedgwick LLP

Anurita S. Varma
(949) 852-8200
anurita.varma@sedgwicklaw.com

January 26, 2015

First Class Mail
Custodian of Records
Penny Lane Group Home
15305 Rayen Street,
North Hills, California 91343

Re: *James Anthony Scott, et al. v. Los Angeles Unified School District, et al.*;
Los Angeles Superior Court Case No.: BC547897
Our file No.: 11553-000016

Custodian of Records:

Enclosed please find an amended Deposition Subpoena for Production of Business Records pursuant to the Court's order on January 9, 2015. A copy of the Court's order is attached. Please contact Sheryl Rosenberg at (213) 615-8032 should you have any questions.

Very truly yours,

Anurita S. Varma

Anurita S. Varma
Sedgwick LLP

Enclosure

03/13/2015

19798713v1

SUBP-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):	FOR COURT USE ONLY
Valerie Rojas (Bar No. 180041) / Anurita S. Varma (Bar No. 279486) Sheryl Rosenberg (Bar No. 232862) Sedgwick LLP, 801 S. Figueroa St., 19th Fl. Los Angeles, CA 90017 TELEPHONE NO.: 213-615-8032 FAX NO.: 213-426-6921 E-MAIL ADDRESS: sheryl.rosenberg@sedgwicklaw.com ATTORNEY FOR (Name): Los Angeles Unified School District	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF **Los Angeles** STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA, 90012 BRANCH NAME: Stanley Mosk Courthouse	
PLAINTIFF/PETITIONER: James Anthony Scott, et al. DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.	
DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS	CASE NUMBER: BC 547897

THE PEOPLE OF THE STATE OF CALIFORNIA, TO ***(name, address, and telephone number of deponent, if known):***
Custodian of Records: Penny Lane Group Home, 15305 Rayen Street, North Hills, CA 91343, (818) 892-3423

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To *(name of deposition officer)*: Pike Photocopy, Inc., X395 (310) 397-0400
On *(date)*: February 17, 2015 At *(time)*: 10:00 a.m.
Location *(address)*: 4221 S. Sepulveda Blvd., Culver City, CA 90230

Do not release the requested records to the deposition officer prior to the date and time stated above.

a. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.

b. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).

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3. The records to be produced are described as follows *(if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified):*

☒ Continued on Attachment 3.

4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, *AND* CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: January 26, 2015

Anurita S. Varma
(TYPE OR PRINT NAME)

▶ Anu S. Va
(SIGNATURE OF PERSON ISSUING SUBPOENA)

Atty for Def. Los Angeles Unified School District
(TITLE)

(Proof of service on reverse)

PLAINTIFF/PETITIONER: James Anthony Scott, et al. DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.	CASE NUMBER: BC 547897

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

1. I served this *Deposition Subpoena for Production of Business Records* by personally delivering a copy to the person served as follows:
   a. Person served *(name)*:
   b. Address where served:
   c. Date of delivery:
   d. Time of delivery:
   e. (1) ☐ Witness fees were paid.
      Amount:..... $ _____
      (2) ☐ Copying fees were paid.
      Amount:..... $ _____
   f. Fee for service:..... $ _____
2. I received this subpoena for service on *(date)*:
3. Person serving:
   a. ☐ Not a registered California process server.
   b. ☐ California sheriff or marshal.
   c. ☐ Registered California process server.
   d. ☐ Employee or independent contractor of a registered California process server.
   e. ☐ Exempt from registration under Business and Professions Code section 22350(b).
   f. ☐ Registered professional photocopier.
   g. ☐ Exempt from registration under Business and Professions Code section 22451.
   h. Name, address, telephone number, and, if applicable, county of registration and number:

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

Date:

▶ _____
(SIGNATURE)

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

▶ _____
(SIGNATURE)

American LegalNet, Inc.
www.FormsWorkFlow.com

James Anthony Scott, et al. v. Los Angeles Unified, et al.

Court Case No.: BC547897

ATTACHMENT "3"

Scott, James Anthony

D.O.B.: 09/03/98

Any and all documents, from January 1, 2013, to the Present, which evidence, reflect, discuss, mention, or comment upon the above-named person, including, but not limited to, those related to educational records, attendance, disciplinary actions, involvement in academic and non-academic activities, relationships with other individuals, bullying, emotional distress, mental disorders, mental illnesses, and general mood and emotional state.

Note: To the extent the records requested in this Attachment identify minors other than the above-named person, please redact the identities of those minors.

03/13/2015

36

Superior Court of California

County of Los Angeles

Department 36

FILED
Superior Court of California
County of Los Angeles
JAN 09 2015
Sherri R. Carter, Executive Officer/Clerk
By Cher Mason Deputy

SCOTT, Plaintiff(s), v. LOS ANGELES UNIFIED SCHOOL DISTRICT, Defendant(s).	Case No.: BC547897 Hearing Date: 1/9/15 **RULING RE:** DEFENDANT LOS ANGELES UNIFIED SCHOOL DISTRICT'S MOTION TO COMPEL SUBPOENAED ENTITIES TO PRODUCE RECORDS.

The motion is denied, without prejudice to serve narrowly tailored subpoenas, and to obtain information Plaintiff volunteers to provide.

Moving party has not evidenced that all requested records are relevant, due to not identifying all content of all records. Instead, moving party is arguing in generalities about relevance, and speculating that specific, relevant information may be included within the broad scope of the requests (e.g., reply, 7:11 ("Records from these group homes may reflect....")). [Emphasis added.]

"Mere speculation as to the possibility that some portion of the records might be relevant to some substantive issue does not suffice" for showing direct relevance as to private information sought in discovery. Davis v. Sup. Ct. (1992) 7 Cal. App. 4th 1008, 1017-20 (directing trial court to grant motion to quash as to discovery request that was not narrowly drawn to enable the court to evaluate the appropriate extent of disclosure). Absent showings of direct relevance, compelling

need, and unavailability of alternative sources, a trial court only could find that a privacy interest prevails. Ombudsman Services of No. Cal. v. Sup. Ct. (2007) 154 Cal.App.4th 1233, 1251. Although discovery of other stressors may be relevant, the party seeking private information has the burden to show that the information is directly relevant to the claims, by identifying the specific emotional injuries claimed, and showing a nexus between the claimed damages and distress or other harm which may be shown by private information. *E.g.*, Brenda L. v. Sup. Ct. (1998) 65 Cal. App. 4th 794, 801-802.

Patients have a reasonable expectation of privacy as to their medical information that is not directly relevant to a particular condition the patient has placed in issue. California Consumer Health Care Council v. Kaiser Foundation Health Plan, Inc. (2006) 142 Cal. App. 4th 21, 31.

"In those situations where it is argued that a party waives protection by filing a lawsuit, the court must construe the concept of 'waiver' narrowly and a compelling public interest is demonstrated only where the material sought is directly relevant to the litigation." Tylo v. Sup. Ct. (1997) 55 Cal. App. 4th 1379, 1387. "[E]ven when a plaintiff files an action that places his or her medical records at issue, waivers of constitutional rights are narrowly construed and not lightly found." Bearman v. Sup. Ct. (2004) 117 Cal. App. 4th 463, 473. Waivers of constitutional rights, including privacy, are not lightly found, but are possible, depending on the circumstances. Heda v. Sup. Ct. (1990) 225 Cal. App. 3d 525, 530. *But see* Weil & Brown, Civ. Pro. Before Trial (The Rutter Group 2014) ¶8:319.2 (citing Boler v. Sup. Ct. (1987) 201 Cal.App.3d 467, 472. Implied waiver occurs when the objecting party places directly in issue privileged communications, but not when the party seeking discovery has placed them in issue by their filed documents. Aetna Casualty & Sur. Co. v. Sup. Ct. (1984) 153 Cal. App. 3d 467, 477.

Dated: 1/9/15

Gregory W. Alarcon

Gregory Alarcon
Superior Court Judge

03/13/2015

Law Offices

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RENEE MOCHKATEL
MARGERY N. SOMERS
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MARCUS J. SPIEGEL

*A PROFESSIONAL CORPORATION
†ALSO ADMITTED TO NEW YORK BAR
◊ALSO ADMITTED TO WASHINGTON DC BAR

OF COUNSEL - NEW YORK
MARIANN WANG
(212) 620-2600

January 30, 2015

Via Federal Express

Penny Lane Group Home
15303 Rain Street
North Hills, CA 91343

Re: James Anthony Scott v. Los Angeles Unified School District
LASC Case No. BC547897

To Person Most Knowledgeable:

As you know, we represent James Anthony Scott in his lawsuit against Los Angeles Unified School District. Sheryl Rosenberg of Sedgwick, Deter, Moran & Arnold, on behalf of Defendant, recently served you a second time with another Deposition Subpoena for Production of Business Records regarding Mr. Scott. This subpoena is different from the first. The Court denied the first subpoena. Thus, the defense is now trying again to obtain records by narrowing the scope.

The purpose of this letter is to advise you that we are objecting on behalf of Mr. Scott to the production of these records, as they contain information we believe violates Mr. Scott's constitutional right of privacy. We intend to file a Motion to Quash with the Court before the date of production unless we can come to some agreement with the defense first (called "meet and confer") regarding the parameters of this latest subpoena or to withdraw it.

Therefore, do not produce any of the requested records until I advise you as to the outcome of our discussions and/or the Court has ruled on Mr. Scott's motion. Any production of such documents without a court order would be a violation of our client's privacy rights and could subject you to liability. We will notify you once the Court has decided whether these records should be produced.

03/13/2015

Should you have any questions regarding this matter, please do not hesitate to contact me. Thank you for your attention to this matter.

Very truly yours,

ALLRED, MAROKO & GOLDBERG

MARGERY N. SOMERS

MS:js
Enclosures
cc: Sheryl Rosenberg, Esq.

03/13/2015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Valerie Rojas (Bar No. 180041) / Anurita S. Varma (Bar No. 279486)
Sheryl Rosenberg (Bar No. 232862)
Sedgwick LLP, 801 S. Figueroa St., 19th Fl.
Los Angeles, CA 90017
TELEPHONE NO.: 213-615-8032 FAX NO.: 213-426-6921
E-MAIL ADDRESS: sheryl.rosenberg@sedgwicklaw.com
ATTORNEY FOR (Name): Los Angeles Unified School District

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS:
CITY AND ZIP CODE: Los Angeles, CA, 90012
BRANCH NAME: Stanley Mosk Courthouse

PLAINTIFF/PETITIONER: James Anthony Scott, et al.
DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.

DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

CASE NUMBER: BC 547897

THE PEOPLE OF THE STATE OF CALIFORNIA, TO *(name, address, and telephone number of deponent, if known)*:
Custodian of Records: Penny Lane Group Home, 15305 Rayen Street, North Hills, CA 91343, (818) 892-3423

1. **YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:**

To *(name of deposition officer)*: Pike Photocopy, Inc., X395 (310) 397-0400
On *(date)*: February 17, 2015 At *(time)*: 10:00 a.m.
Location *(address)*: 4221 S. Sepulveda Blvd., Culver City, CA 90230

Do not release the requested records to the deposition officer prior to the date and time stated above.

a. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.

b. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).

c. ☒ by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.

2. *The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.*

3. The records to be produced are described as follows *(if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified)*:

☒ Continued on Attachment 3.

4. **IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, *AND* CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.**

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: January 26, 2015

Anurita S. Varma
(TYPE OR PRINT NAME)

▶ Anu S. Va
(SIGNATURE OF PERSON ISSUING SUBPOENA)

Atty for Def. Los Angeles Unified School District
(TITLE)

(Proof of service on reverse)

Form Adopted for Mandatory Use
Judicial Council of California
SUBP-010 [Rev. January 1, 2012]

Code of Civil Procedure, §§ 2020.410–2020.440;
Government Code, § 68097.1
www.courts.ca.gov

PLAINTIFF/PETITIONER: James Anthony Scott, et al. DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.	CASE NUMBER: BC 547897

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

1. I served this *Deposition Subpoena for Production of Business Records* by personally delivering a copy to the person served as follows:
   a. Person served *(name)*:
   b. Address where served:
   c. Date of delivery:
   d. Time of delivery:
   e. (1) ☐ Witness fees were paid.
      Amount:..... $ _____
      (2) ☐ Copying fees were paid.
      Amount:..... $ _____
   f. Fee for service:..... $ _____
2. I received this subpoena for service on *(date)*:
3. Person serving:
   a. ☐ Not a registered California process server.
   b. ☐ California sheriff or marshal.
   c. ☐ Registered California process server.
   d. ☐ Employee or independent contractor of a registered California process server.
   e. ☐ Exempt from registration under Business and Professions Code section 22350(b).
   f. ☐ Registered professional photocopier.
   g. ☐ Exempt from registration under Business and Professions Code section 22451.
   h. Name, address, telephone number, and, if applicable, county of registration and number:

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

Date:

▶ _____
(SIGNATURE)

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

▶ _____
(SIGNATURE)

American LegalNet, Inc.
www.FormsWorkFlow.com

James Anthony Scott, et al. v. Los Angeles Unified, et al.

Court Case No.: BC547897

ATTACHMENT "3"

Scott, James Anthony

D.O.B.: 09/03/98

Any and all documents, from January 1, 2013, to the Present, which evidence, reflect, discuss, mention, or comment upon the above-named person, including, but not limited to, those related to educational records, attendance, disciplinary actions, involvement in academic and non-academic activities, relationships with other individuals, bullying, emotional distress, mental disorders, mental illnesses, and general mood and emotional state.

Note: To the extent the records requested in this Attachment identify minors other than the above-named person, please redact the identities of those minors.

03/13/2015

36

Superior Court of California
County of Los Angeles
Department 36

FILED
Superior Court of California
County of Los Angeles
JAN 09 2015
Sherri R. Carter, Executive Officer/Clerk
By Cher Mason Deputy

SCOTT, Plaintiff(s), v. LOS ANGELES UNIFIED SCHOOL DISTRICT, Defendant(s).	Case No.: BC547897 Hearing Date: 1/9/15 **RULING RE:** DEFENDANT LOS ANGELES UNIFIED SCHOOL DISTRICT'S MOTION TO COMPEL SUBPOENAED ENTITIES TO PRODUCE RECORDS.

The motion is denied, without prejudice to serve narrowly tailored subpoenas, and to obtain information Plaintiff volunteers to provide.

Moving party has not evidenced that all requested records are relevant, due to not identifying all content of all records. Instead, moving party is arguing in generalities about relevance, and speculating that specific, relevant information may be included within the broad scope of the requests (e.g., reply, 7:11 ("Records from these group homes may reflect....")). [Emphasis added.]

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need, and unavailability of alternative sources, a trial court only could find that a privacy interest prevails. Ombudsman Services of No. Cal. v. Sup. Ct. (2007) 154 Cal.App.4th 1233, 1251. Although discovery of other stressors may be relevant, the party seeking private information has the burden to show that the information is directly relevant to the claims, by identifying the specific emotional injuries claimed, and showing a nexus between the claimed damages and distress or other harm which may be shown by private information. *E.g.*, Brenda L. v. Sup. Ct. (1998) 65 Cal. App. 4th 794, 801-802.

Patients have a reasonable expectation of privacy as to their medical information that is not directly relevant to a particular condition the patient has placed in issue. California Consumer Health Care Council v. Kaiser Foundation Health Plan, Inc. (2006) 142 Cal. App. 4th 21, 31.

"In those situations where it is argued that a party waives protection by filing a lawsuit, the court must construe the concept of 'waiver' narrowly and a compelling public interest is demonstrated only where the material sought is directly relevant to the litigation." Tylo v. Sup. Ct. (1997) 55 Cal. App. 4th 1379, 1387. "[E]ven when a plaintiff files an action that places his or her medical records at issue, waivers of constitutional rights are narrowly construed and not lightly found." Bearman v. Sup. Ct. (2004) 117 Cal. App. 4th 463, 473. Waivers of constitutional rights, including privacy, are not lightly found, but are possible, depending on the circumstances. Heda v. Sup. Ct. (1990) 225 Cal. App. 3d 525, 530. *But see* Weil & Brown, Civ. Pro. Before Trial (The Rutter Group 2014) ¶8:319.2 (citing Boler v. Sup. Ct. (1987) 201 Cal.App.3d 467, 472. Implied waiver occurs when the objecting party places directly in issue privileged communications, but not when the party seeking discovery has placed them in issue by their filed documents. Aetna Casualty & Sur. Co. v. Sup. Ct. (1984) 153 Cal. App. 3d 467, 477.

Dated: 1/9/15

Gregory W. Alarcon

Gregory Alarcon
Superior Court Judge

03/13/2015

Law Offices

ALLRED, MAROKO & GOLDBERG

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

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R. TOMÁS OLMOS
RENEE MOCHKATEL
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MARCUS J. SPIEGEL

*A PROFESSIONAL CORPORATION
†ALSO ADMITTED TO NEW YORK BAR
◊ALSO ADMITTED TO WASHINGTON DC BAR

OF COUNSEL - NEW YORK
MARIANN WANG
(212) 620-2600

February 2, 2015

Via U.S. Mail

Maurice Zeitlian, M.D.
6736 Laurel Canyon Boulevard, Suite 200
North Hollywood, CA 91606

Re: James Anthony Scott v. Los Angeles Unified School District
LASC Case No. BC547897

Dear Dr. Zeitlian:

As you know, we represent James Anthony Scott in his lawsuit against Los Angeles Unified School District. Sheryl Rosenberg of Sedgwick, Deter, Moran & Arnold, on behalf of Defendant, recently served you a second time with another Deposition Subpoena for Production of Business Records regarding Mr. Scott. This subpoena is different from the first. The Court denied the first subpoena. Thus, the defense is now trying again to obtain records by narrowing the scope.

The purpose of this letter is to advise you that we are objecting on behalf of Mr. Scott to the production of these records, as they contain information we believe violates Mr. Scott's constitutional right of privacy. We intend to file a Motion to Quash with the Court before the date of production unless we can come to some agreement with the defense first (called "meet and confer") regarding the parameters of this latest subpoena or to withdraw it.

Therefore, do not produce any of the requested records until I advise you as to the outcome of our discussions and/or the Court has ruled on Mr. Scott's motion. Any production of such documents without a court order would be a violation of our client's privacy rights and could subject you to liability. We will notify you once the Court has decided whether these records should be produced.

2015 FEB 03

Should you have any questions regarding this matter, please do not hesitate to contact me. Thank you for your attention to this matter.

Very truly yours,

ALLRED, MAROKO & GOLDBERG

MARGERY N. SOMERS

MS:js
Enclosures
cc: Sheryl Rosenberg, Esq.

03/13/2015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Valerie Rojas (Bar No. 180041) / Anurita S. Varma (Bar No. 279486)
Sheryl Rosenberg (Bar No. 232862)
Sedgwick LLP, 801 S. Figueroa St., 19th Fl.
Los Angeles, CA 90017
TELEPHONE NO.: 213-615-8032 FAX NO.: 213-426-6921
E-MAIL ADDRESS: sheryl.rosenberg@sedgwicklaw.com
ATTORNEY FOR (Name): Los Angeles Unified School District

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF **Los Angeles**
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS:
CITY AND ZIP CODE: Los Angeles, CA, 90012
BRANCH NAME: Stanley Mosk Courthouse

PLAINTIFF/PETITIONER: James Anthony Scott, et al.
DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.

DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

CASE NUMBER: BC 547897

THE PEOPLE OF THE STATE OF CALIFORNIA, TO *(name, address, and telephone number of deponent, if known):*
Custodian of Records: Dr. Maurice Zeitlin, M.D., 6736 Laurel Canyon Bl, North Hollywood, CA 91606, (818) 755-8786

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To *(name of deposition officer)*: Pike Photocopy, Inc., X395 (310) 397-0400
On *(date)*: February 17, 2015 At *(time)*: 10:00 a.m.
Location *(address)*: 4221 S. Sepulveda Blvd., Culver City, CA 90230

Do not release the requested records to the deposition officer prior to the date and time stated above.

a. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.

b. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).

c. ☒ by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.

2. *The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.*

3. The records to be produced are described as follows *(if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified):*

☒ Continued on Attachment 3.

4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, *AND* CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: January 26, 2015

Anurita S. Varma
(TYPE OR PRINT NAME)

▶ Anu S. Va
(SIGNATURE OF PERSON ISSUING SUBPOENA)

Atty for Def. Los Angeles Unified School District
(TITLE)

(Proof of service on reverse)

Form Adopted for Mandatory Use
Judicial Council of California
SUBP-010 [Rev. January 1, 2012]

Code of Civil Procedure, §§ 2020.410–2020.440;
Government Code, § 68097.1
www.courts.ca.gov

PLAINTIFF/PETITIONER: James Anthony Scott, et al. DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.	CASE NUMBER: BC 547897

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

1. I served this *Deposition Subpoena for Production of Business Records* by personally delivering a copy to the person served as follows:
   a. Person served *(name)*:
   b. Address where served:
   c. Date of delivery:
   d. Time of delivery:
   e. (1) ☐ Witness fees were paid.
      Amount:..... $ _____
      (2) ☐ Copying fees were paid.
      Amount:..... $ _____
   f. Fee for service:..... $ _____
2. I received this subpoena for service on *(date)*:
3. Person serving:
   a. ☐ Not a registered California process server.
   b. ☐ California sheriff or marshal.
   c. ☐ Registered California process server.
   d. ☐ Employee or independent contractor of a registered California process server.
   e. ☐ Exempt from registration under Business and Professions Code section 22350(b).
   f. ☐ Registered professional photocopier.
   g. ☐ Exempt from registration under Business and Professions Code section 22451.
   h. Name, address, telephone number, and, if applicable, county of registration and number:

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

Date:

▶ _____
(SIGNATURE)

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

▶ _____
(SIGNATURE)

American LegalNet, Inc.
www.FormsWorkFlow.com

James Anthony Scott, et al. v. Los Angeles Unified, et al.

Court Case No.: BC547897

ATTACHMENT "3"

Scott, James Anthony

D.O.B.: 09/03/98

Any and ALL RECORDS for treatment and/or consultation pertaining to the care, treatment and/or examination of the above-named person from September 1, 2013 to the Present, including, but not limited to, all office, emergency room, in-patient & outpatient charts, patient histories, counseling, diagnostic studies, itemized billing to include payments, adjustments, and writeoffs, disability, physical therapy, prescriptions, extended living care facility, psychiatric history, and records relating to relationships with other individuals including family members, friends and peers, bullying, emotional distress, mental disorders, mental illnesses, fears, general mood and emotional state.

Note: To the extent the records requested in this Attachment identify minors other than the above-named person, please redact the identities of those minors.

03/13/2015

36

Superior Court of California
County of Los Angeles
Department 36

FILED
Superior Court of California
County of Los Angeles
JAN 09 2015
Sherri R. Carter, Executive Officer/Clerk
By Cher Mason Deputy

SCOTT, Plaintiff(s), v. LOS ANGELES UNIFIED SCHOOL DISTRICT, Defendant(s).	Case No.: BC547897 Hearing Date: 1/9/15 **RULING RE:** DEFENDANT LOS ANGELES UNIFIED SCHOOL DISTRICT'S MOTION TO COMPEL SUBPOENAED ENTITIES TO PRODUCE RECORDS.

The motion is denied, without prejudice to serve narrowly tailored subpoenas, and to obtain information Plaintiff volunteers to provide.

Moving party has not evidenced that all requested records are relevant, due to not identifying all content of all records. Instead, moving party is arguing in generalities about relevance, and speculating that specific, relevant information may be included within the broad scope of the requests (e.g., reply, 7:11 ("Records from these group homes may reflect....")). [Emphasis added.]

"Mere speculation as to the possibility that some portion of the records might be relevant to some substantive issue does not suffice" for showing direct relevance as to private information sought in discovery. Davis v. Sup. Ct. (1992) 7 Cal. App. 4th 1008, 1017-20 (directing trial court to grant motion to quash as to discovery request that was not narrowly drawn to enable the court to evaluate the appropriate extent of disclosure). Absent showings of direct relevance, compelling

03/13/2015

need, and unavailability of alternative sources, a trial court only could find that a privacy interest prevails. Ombudsman Services of No. Cal. v. Sup. Ct. (2007) 154 Cal.App.4th 1233, 1251. Although discovery of other stressors may be relevant, the party seeking private information has the burden to show that the information is directly relevant to the claims, by identifying the specific emotional injuries claimed, and showing a nexus between the claimed damages and distress or other harm which may be shown by private information. *E.g.*, Brenda L. v. Sup. Ct. (1998) 65 Cal. App. 4th 794, 801-802.

Patients have a reasonable expectation of privacy as to their medical information that is not directly relevant to a particular condition the patient has placed in issue. California Consumer Health Care Council v. Kaiser Foundation Health Plan, Inc. (2006) 142 Cal. App. 4th 21, 31.

"In those situations where it is argued that a party waives protection by filing a lawsuit, the court must construe the concept of 'waiver' narrowly and a compelling public interest is demonstrated only where the material sought is directly relevant to the litigation." Tylo v. Sup. Ct. (1997) 55 Cal. App. 4th 1379, 1387. "[E]ven when a plaintiff files an action that places his or her medical records at issue, waivers of constitutional rights are narrowly construed and not lightly found." Bearman v. Sup. Ct. (2004) 117 Cal. App. 4th 463, 473. Waivers of constitutional rights, including privacy, are not lightly found, but are possible, depending on the circumstances. Heda v. Sup. Ct. (1990) 225 Cal. App. 3d 525, 530. *But see* Weil & Brown, Civ. Pro. Before Trial (The Rutter Group 2014) ¶8:319.2 (citing Boler v. Sup. Ct. (1987) 201 Cal.App.3d 467, 472. Implied waiver occurs when the objecting party places directly in issue privileged communications, but not when the party seeking discovery has placed them in issue by their filed documents. Aetna Casualty & Sur. Co. v. Sup. Ct. (1984) 153 Cal. App. 3d 467, 477.

Dated: 1/9/15

Gregory W. Alarcon

Gregory Alarcon
Superior Court Judge

03/13/2015

Law Offices

ALLRED, MAROKO & GOLDBERG

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

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†ALSO ADMITTED TO NEW YORK BAR
◊ALSO ADMITTED TO WASHINGTON DC BAR

OF COUNSEL - NEW YORK
MARIANN WANG
(212) 620-2600

February 2, 2015

Via U.S. Mail

Mr. Carlos Lack
6736 Laurel Canyon Boulevard, Suite 200
North Hollywood, CA 91606

Re: James Anthony Scott v. Los Angeles Unified School District
LASC Case No. BC547897

Dear Mr. Lack:

As you know, we represent James Anthony Scott in his lawsuit against Los Angeles Unified School District. Sheryl Rosenberg of Sedgwick, Deter, Moran & Arnold, on behalf of Defendant, recently served you a second time with another Deposition Subpoena for Production of Business Records regarding Mr. Scott. This subpoena is different from the first. The Court denied the first subpoena. Thus, the defense is now trying again to obtain records by narrowing the scope.

The purpose of this letter is to advise you that we are objecting on behalf of Mr. Scott to the production of these records, as they contain information we believe violates Mr. Scott's constitutional right of privacy. We intend to file a Motion to Quash with the Court before the date of production unless we can come to some agreement with the defense first (called "meet and confer") regarding the parameters of this latest subpoena or to withdraw it.

Therefore, do not produce any of the requested records until I advise you as to the outcome of our discussions and/or the Court has ruled on Mr. Scott's motion. Any production of such documents without a court order would be a violation of our client's privacy rights and could subject you to liability. We will notify you once the Court has decided whether these records should be produced.

02/13/2015

NEW YORK OFFICE | 305 BROADWAY, SUITE 607 | NEW YORK, NEW YORK 10007
T (212) 202-2966 | FAX (212) 202-2967

Should you have any questions regarding this matter, please do not hesitate to contact me. Thank you for your attention to this matter.

Very truly yours,

ALLRED, MAROKO & GOLDBERG

MARGERY N. SOMERS

MS:js
Enclosures
cc: Sheryl Rosenberg, Esq.

03/13/2015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Valerie Rojas (Bar No. 180041) / Anurita S. Varma (Bar No. 279486)
Sheryl Rosenberg (Bar No. 232862)
Sedgwick LLP, 801 S. Figueroa St., 19th Fl.
Los Angeles, CA 90017
TELEPHONE NO.: 213-615-8032 FAX NO.: 213-426-6921
E-MAIL ADDRESS: sheryl.rosenberg@sedgwicklaw.com
ATTORNEY FOR (Name): Los Angeles Unified School District

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS:
CITY AND ZIP CODE: Los Angeles, CA, 90012
BRANCH NAME: Stanley Mosk Courthouse

PLAINTIFF/PETITIONER: James Anthony Scott, et al.
DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.

DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

CASE NUMBER: BC 547897

THE PEOPLE OF THE STATE OF CALIFORNIA, TO *(name, address, and telephone number of deponent, if known)*:
Custodian of Records: Mr. Carlos Lack, 6736 Laurel Canyon Bl, North Hollywood, CA 91606, (818) 755-8786

1. **YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:**

To *(name of deposition officer)*: Pike Photocopy, Inc., X395 (310) 397-0400
On *(date)*: February 17, 2015 At *(time)*: 10:00 a.m.
Location *(address)*: 4221 S. Sepulveda Blvd., Culver City, CA 90230

Do not release the requested records to the deposition officer prior to the date and time stated above.

a. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.

b. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).

c. ☒ by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.

2. *The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.*

3. The records to be produced are described as follows *(if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified)*:

☒ Continued on Attachment 3.

4. **IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, *AND* CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.**

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: January 26, 2015

Anurita S. Varma
(TYPE OR PRINT NAME)

▶ Anu S. Va
(SIGNATURE OF PERSON ISSUING SUBPOENA)

Atty for Def. Los Angeles Unified School District
(TITLE)

(Proof of service on reverse)

Form Adopted for Mandatory Use
Judicial Council of California
SUBP-010 [Rev. January 1, 2012]

Code of Civil Procedure, §§ 2020.410–2020.440;
Government Code, § 68097.1
www.courts.ca.gov

PLAINTIFF/PETITIONER: James Anthony Scott, et al. DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.	CASE NUMBER: BC 547897

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

1. I served this *Deposition Subpoena for Production of Business Records* by personally delivering a copy to the person served as follows:
   a. Person served *(name)*:
   b. Address where served:
   c. Date of delivery:
   d. Time of delivery:
   e. (1) ☐ Witness fees were paid.
      Amount:..... $ _____
      (2) ☐ Copying fees were paid.
      Amount:..... $ _____
   f. Fee for service:..... $ _____
2. I received this subpoena for service on *(date)*:
3. Person serving:
   a. ☐ Not a registered California process server.
   b. ☐ California sheriff or marshal.
   c. ☐ Registered California process server.
   d. ☐ Employee or independent contractor of a registered California process server.
   e. ☐ Exempt from registration under Business and Professions Code section 22350(b).
   f. ☐ Registered professional photocopier.
   g. ☐ Exempt from registration under Business and Professions Code section 22451.
   h. Name, address, telephone number, and, if applicable, county of registration and number:

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

Date:

▶ _____
(SIGNATURE)

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

▶ _____
(SIGNATURE)

American LegalNet, Inc.
www.FormsWorkFlow.com

James Anthony Scott, et al. v. Los Angeles Unified, et al.

Court Case No.: BC547897

ATTACHMENT "3"

Scott, James Anthony

D.O.B.: 09/03/98

Any and ALL RECORDS for treatment and/or consultation pertaining to the care, treatment and/or examination of the above-named person from September 1, 2013 to the Present, including, but not limited to, all office, emergency room, in-patient & outpatient charts, patient histories, counseling, diagnostic studies, itemized billing to include payments, adjustments, and writeoffs, disability, physical therapy, prescriptions, extended living care facility, psychiatric history, and records relating to relationships with other individuals including family members, friends and peers, bullying, emotional distress, mental disorders, mental illnesses, fears, general mood and emotional state.

Note: To the extent the records requested in this Attachment identify minors other than the above-named person, please redact the identities of those minors.

03/13/2015

36

Superior Court of California
County of Los Angeles
Department 36

FILED
Superior Court of California
County of Los Angeles
JAN 09 2015
Sherri R. Carter, Executive Officer/Clerk
By Cher Mason Deputy

SCOTT, Plaintiff(s), v. LOS ANGELES UNIFIED SCHOOL DISTRICT, Defendant(s).	Case No.: BC547897 Hearing Date: 1/9/15 **RULING RE:** DEFENDANT LOS ANGELES UNIFIED SCHOOL DISTRICT'S MOTION TO COMPEL SUBPOENAED ENTITIES TO PRODUCE RECORDS.

The motion is denied, without prejudice to serve narrowly tailored subpoenas, and to obtain information Plaintiff volunteers to provide.

Moving party has not evidenced that all requested records are relevant, due to not identifying all content of all records. Instead, moving party is arguing in generalities about relevance, and speculating that specific, relevant information may be included within the broad scope of the requests (e.g., reply, 7:11 ("Records from these group homes may reflect....")). [Emphasis added.]

"Mere speculation as to the possibility that some portion of the records might be relevant to some substantive issue does not suffice" for showing direct relevance as to private information sought in discovery. Davis v. Sup. Ct. (1992) 7 Cal. App. 4th 1008, 1017-20 (directing trial court to grant motion to quash as to discovery request that was not narrowly drawn to enable the court to evaluate the appropriate extent of disclosure). Absent showings of direct relevance, compelling

need, and unavailability of alternative sources, a trial court only could find that a privacy interest prevails. Ombudsman Services of No. Cal. v. Sup. Ct. (2007) 154 Cal.App.4th 1233, 1251. Although discovery of other stressors may be relevant, the party seeking private information has the burden to show that the information is directly relevant to the claims, by identifying the specific emotional injuries claimed, and showing a nexus between the claimed damages and distress or other harm which may be shown by private information. *E.g.*, Brenda L. v. Sup. Ct. (1998) 65 Cal. App. 4th 794, 801-802.

Patients have a reasonable expectation of privacy as to their medical information that is not directly relevant to a particular condition the patient has placed in issue. California Consumer Health Care Council v. Kaiser Foundation Health Plan, Inc. (2006) 142 Cal. App. 4th 21, 31.

"In those situations where it is argued that a party waives protection by filing a lawsuit, the court must construe the concept of 'waiver' narrowly and a compelling public interest is demonstrated only where the material sought is directly relevant to the litigation." Tylo v. Sup. Ct. (1997) 55 Cal. App. 4th 1379, 1387. "[E]ven when a plaintiff files an action that places his or her medical records at issue, waivers of constitutional rights are narrowly construed and not lightly found." Bearman v. Sup. Ct. (2004) 117 Cal. App. 4th 463, 473. Waivers of constitutional rights, including privacy, are not lightly found, but are possible, depending on the circumstances. Heda v. Sup. Ct. (1990) 225 Cal. App. 3d 525, 530. *But see* Weil & Brown, Civ. Pro. Before Trial (The Rutter Group 2014) ¶8:319.2 (citing Boler v. Sup. Ct. (1987) 201 Cal.App.3d 467, 472. Implied waiver occurs when the objecting party places directly in issue privileged communications, but not when the party seeking discovery has placed them in issue by their filed documents. Aetna Casualty & Sur. Co. v. Sup. Ct. (1984) 153 Cal. App. 3d 467, 477.

Dated: 1/9/15

Gregory W. Alarcon

Gregory Alarcon
Superior Court Judge

03/13/2015

Law Offices

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*A PROFESSIONAL CORPORATION
†ALSO ADMITTED TO NEW YORK BAR
◊ALSO ADMITTED TO WASHINGTON DC BAR

OF COUNSEL - NEW YORK
MARIANN WANG
(212) 620-2600

February 2, 2015

Via Federal Express

Lifeworks
Los Angeles LBGT Center
1125 N. McCadden Place
Los Angeles, CA 90038

Re: James Anthony Scott v. Los Angeles Unified School District
LASC Case No. BC547897

To Person Most Knowledgeable:

As you know, we represent James Anthony Scott in his lawsuit against Los Angeles Unified School District. Sheryl Rosenberg of Sedgwick, Deter, Moran & Arnold, on behalf of Defendant, recently served you a second time with another Deposition Subpoena for Production of Business Records regarding Mr. Scott. This subpoena is different from the first. The Court denied the first subpoena. Thus, the defense is now trying again to obtain records by narrowing the scope.

The purpose of this letter is to advise you that we are objecting on behalf of Mr. Scott to the production of these records, as they contain information we believe violates Mr. Scott's constitutional right of privacy. We intend to file a Motion to Quash with the Court before the date of production unless we can come to some agreement with the defense first (called "meet and confer") regarding the parameters of this latest subpoena or to withdraw it.

Therefore, do not produce any of the requested records until I advise you as to the outcome of our discussions and/or the Court has ruled on Mr. Scott's motion. Any production of such documents without a court order would be a violation of our client's privacy rights and could subject you to liability. We will notify you once the Court has decided whether these records should be produced.

03/13/2015

Should you have any questions regarding this matter, please do not hesitate to contact me. Thank you for your attention to this matter.

Very truly yours,

ALLRED, MAROKO & GOLDBERG

MARGERY N. SOMERS

MS:js
Enclosures
cc: Sheryl Rosenberg, Esq.

03/13/2015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Valerie Rojas (Bar No. 180041) / Anurita S. Varma (Bar No. 279486)
Sheryl Rosenberg (Bar No. 232862)
Sedgwick LLP, 801 S. Figueroa St., 19th Fl.
Los Angeles, CA 90017
TELEPHONE NO.: 213-615-8032 FAX NO.: 213-426-6921
E-MAIL ADDRESS: sheryl.rosenberg@sedgwicklaw.com
ATTORNEY FOR (Name): Los Angeles Unified School District

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF **Los Angeles**
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS:
CITY AND ZIP CODE: Los Angeles, CA, 90012
BRANCH NAME: Stanley Mosk Courthouse

PLAINTIFF/PETITIONER: James Anthony Scott, et al.
DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.

DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

CASE NUMBER: BC 547897

THE PEOPLE OF THE STATE OF CALIFORNIA, TO ***(name, address, and telephone number of deponent, if known):***
Custodian of Records: Lifeworks, Los Angeles LGBT Center, 1125 N. McCadden Place, Los Angeles, CA 90038, 323-860-7373

1. **YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:**

To *(name of deposition officer)*: Pike Photocopy, Inc., X395 (310) 397-0400
On *(date)*: February 17, 2015 At *(time)*: 10:00 a.m.
Location *(address)*: 4221 S. Sepulveda Blvd., Culver City, CA 90230

Do not release the requested records to the deposition officer prior to the date and time stated above.

a. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.

b. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).

c. ☒ by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.

2. *The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.*

3. The records to be produced are described as follows *(if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified):*

☒ Continued on Attachment 3.

4. **IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, *AND* CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.**

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: January 26, 2015

Anurita S. Varma
(TYPE OR PRINT NAME)

▶ Anurita S. Varma
(SIGNATURE OF PERSON ISSUING SUBPOENA)

Atty for Def. Los Angeles Unified School District
(TITLE)

(Proof of service on reverse)

Form Adopted for Mandatory Use
Judicial Council of California
SUBP-010 [Rev. January 1, 2012]

Code of Civil Procedure, §§ 2020.410–2020.440;
Government Code, § 68097.1
www.courts.ca.gov

PLAINTIFF/PETITIONER: James Anthony Scott, et al. DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.	CASE NUMBER: BC 547897

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

1. I served this *Deposition Subpoena for Production of Business Records* by personally delivering a copy to the person served as follows:
   a. Person served *(name)*:
   b. Address where served:
   c. Date of delivery:
   d. Time of delivery:
   e. (1) ☐ Witness fees were paid.
      Amount:..... $ _____
      (2) ☐ Copying fees were paid.
      Amount:..... $ _____
   f. Fee for service:..... $ _____
2. I received this subpoena for service on *(date)*:
3. Person serving:
   a. ☐ Not a registered California process server.
   b. ☐ California sheriff or marshal.
   c. ☐ Registered California process server.
   d. ☐ Employee or independent contractor of a registered California process server.
   e. ☐ Exempt from registration under Business and Professions Code section 22350(b).
   f. ☐ Registered professional photocopier.
   g. ☐ Exempt from registration under Business and Professions Code section 22451.
   h. Name, address, telephone number, and, if applicable, county of registration and number:

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

Date:

▶ _____
(SIGNATURE)

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

▶ _____
(SIGNATURE)

American LegalNet, Inc.
www.FormsWorkFlow.com

James Anthony Scott, et al. v. Los Angeles Unified, et al.

Court Case No.: BC547897

ATTACHMENT "3"

Scott, James Anthony

D.O.B.: 09/03/98

Any and all documents, from January 1, 2011, to the Present, which evidence, reflect, discuss, mention, or comment upon the above-named person, including, but not limited to, those related to educational records, attendance, disciplinary actions, involvement in academic and non-academic activities, relationships with other individuals, bullying, emotional distress, mental disorders, mental illnesses, and general mood and emotional state.

Note: To the extent the records requested in this Attachment identify minors other than the above-named person, please redact the identities of those minors.

03/13/2015

36

Superior Court of California
County of Los Angeles
Department 36

FILED
Superior Court of California
County of Los Angeles
JAN 09 2015
Sherri R. Carter, Executive Officer/Clerk
By Cher Mason Deputy

SCOTT, Plaintiff(s), v. LOS ANGELES UNIFIED SCHOOL DISTRICT, Defendant(s).	Case No.: BC547897 Hearing Date: 1/9/15 **RULING RE:** DEFENDANT LOS ANGELES UNIFIED SCHOOL DISTRICT'S MOTION TO COMPEL SUBPOENAED ENTITIES TO PRODUCE RECORDS.

The motion is denied, without prejudice to serve narrowly tailored subpoenas, and to obtain information Plaintiff volunteers to provide.

Moving party has not evidenced that all requested records are relevant, due to not identifying all content of all records. Instead, moving party is arguing in generalities about relevance, and speculating that specific, relevant information may be included within the broad scope of the requests (e.g., reply, 7:11 ("Records from these group homes may reflect....")). [Emphasis added.]

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03/13/2015

need, and unavailability of alternative sources, a trial court only could find that a privacy interest prevails. Ombudsman Services of No. Cal. v. Sup. Ct. (2007) 154 Cal.App.4th 1233, 1251. Although discovery of other stressors may be relevant, the party seeking private information has the burden to show that the information is directly relevant to the claims, by identifying the specific emotional injuries claimed, and showing a nexus between the claimed damages and distress or other harm which may be shown by private information. *E.g.*, Brenda L. v. Sup. Ct. (1998) 65 Cal. App. 4th 794, 801-802.

Patients have a reasonable expectation of privacy as to their medical information that is not directly relevant to a particular condition the patient has placed in issue. California Consumer Health Care Council v. Kaiser Foundation Health Plan, Inc. (2006) 142 Cal. App. 4th 21, 31.

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Dated: 1/9/15

Gregory W. Alarcon

Gregory Alarcon
Superior Court Judge

03/13/2015

Law Offices

ALLRED, MAROKO & GOLDBERG

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

6300 WILSHIRE BOULEVARD
SUITE 1500
LOS ANGELES, CALIFORNIA 90048
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NATHAN GOLDBERG*
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MARCUS J. SPIEGEL

*A PROFESSIONAL CORPORATION
†ALSO ADMITTED TO NEW YORK BAR
◊ALSO ADMITTED TO WASHINGTON DC BAR

OF COUNSEL - NEW YORK
MARIANN WANG
(212) 620-2600

February 2, 2015

Via Federal Express

Los Angeles Youth Network
2471 North Beachwood Drive
Los Angeles, CA 90038

Re: James Anthony Scott v. Los Angeles Unified School District
LASC Case No. BC547897

To Person Most Knowledgeable:

As you know, we represent James Anthony Scott in his lawsuit against Los Angeles Unified School District. Sheryl Rosenberg of Sedgwick, Deter, Moran & Arnold, on behalf of Defendant, recently served you a second time with another Deposition Subpoena for Production of Business Records regarding Mr. Scott. This subpoena is different from the first. The Court denied the first subpoena. Thus, the defense is now trying again to obtain records by narrowing the scope.

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03/13/2015

NEW YORK OFFICE | 305 BROADWAY, SUITE 607 | NEW YORK, NEW YORK 10007
T (212) 202-2966 | FAX (212) 202-2967

Should you have any questions regarding this matter, please do not hesitate to contact me. Thank you for your attention to this matter.

Very truly yours,

ALLRED, MAROKO & GOLDBERG

MARGERY N. SOMERS

MS:js
Enclosures
cc: Sheryl Rosenberg, Esq.

03/13/2015

SUBP-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):	FOR COURT USE ONLY
Valerie Rojas (Bar No. 180041) / Anurita S. Varma (Bar No. 279486) Sheryl Rosenberg (Bar No. 232862) Sedgwick LLP, 801 S. Figueroa St., 19th Fl. Los Angeles, CA 90017 TELEPHONE NO.: 213-615-8032 FAX NO.: 213-426-6921 E-MAIL ADDRESS: sheryl.rosenberg@sedgwicklaw.com ATTORNEY FOR (Name): Los Angeles Unified School District	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA, 90012 BRANCH NAME: Stanley Mosk Courthouse	
PLAINTIFF/PETITIONER: James Anthony Scott, et al. DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.	
DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS	CASE NUMBER: BC 547897

THE PEOPLE OF THE STATE OF CALIFORNIA, TO *(name, address, and telephone number of deponent, if known):*
Custodian of Records: Los Angeles Youth Network, 2471 N. Beachwood Dr., Los Angeles, CA 90038, 323-962-0430

1. **YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:**

To *(name of deposition officer)*: Pike Photocopy, Inc., X395 (310) 397-0400
On *(date)*: February 17, 2015 At *(time)*: 10:00 a.m.
Location *(address)*: 4221 S. Sepulveda Blvd., Culver City, CA 90230

Do not release the requested records to the deposition officer prior to the date and time stated above.

a. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.

b. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).

c. ☒ by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.

2. *The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.*

3. The records to be produced are described as follows *(if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified):*

☒ Continued on Attachment 3.

4. **IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, *AND* CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.**

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: January 26, 2015

Anurita S. Varma
(TYPE OR PRINT NAME)

▶ Anurita S. Varma
(SIGNATURE OF PERSON ISSUING SUBPOENA)

Atty for Def. Los Angeles Unified School District
(TITLE)

(Proof of service on reverse)

PLAINTIFF/PETITIONER: James Anthony Scott, et al. DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.	CASE NUMBER: BC 547897

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

1. I served this *Deposition Subpoena for Production of Business Records* by personally delivering a copy to the person served as follows:
   a. Person served *(name)*:
   b. Address where served:
   c. Date of delivery:
   d. Time of delivery:
   e. (1) ☐ Witness fees were paid.
      Amount:..... $ _____
      (2) ☐ Copying fees were paid.
      Amount:..... $ _____
   f. Fee for service:..... $ _____
2. I received this subpoena for service on *(date)*:
3. Person serving:
   a. ☐ Not a registered California process server.
   b. ☐ California sheriff or marshal.
   c. ☐ Registered California process server.
   d. ☐ Employee or independent contractor of a registered California process server.
   e. ☐ Exempt from registration under Business and Professions Code section 22350(b).
   f. ☐ Registered professional photocopier.
   g. ☐ Exempt from registration under Business and Professions Code section 22451.
   h. Name, address, telephone number, and, if applicable, county of registration and number:

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

Date:

▶ _____
(SIGNATURE)

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

▶ _____
(SIGNATURE)

American LegalNet, Inc.
www.FormsWorkFlow.com

James Anthony Scott, et al. v. Los Angeles Unified, et al.

Court Case No.: BC547897

ATTACHMENT "3"

Scott, James Anthony

D.O.B.: 09/03/98

Any and all documents, from January 1, 2013, to the Present, which evidence, reflect, discuss, mention, or comment upon the above-named person, including, but not limited to, those related to educational records, attendance, disciplinary actions, involvement in academic and non-academic activities, relationships with other individuals, bullying, emotional distress, mental disorders, mental illnesses, and general mood and emotional state.

Note: To the extent the records requested in this Attachment identify minors other than the above-named person, please redact the identities of those minors.

03/13/2015

36

Superior Court of California
County of Los Angeles
Department 36

FILED
Superior Court of California
County of Los Angeles
JAN 09 2015
Sherri R. Carter, Executive Officer/Clerk
By Cher Mason Deputy

SCOTT, Plaintiff(s), v. LOS ANGELES UNIFIED SCHOOL DISTRICT, Defendant(s).	Case No.: BC547897 Hearing Date: 1/9/15 **RULING RE:** DEFENDANT LOS ANGELES UNIFIED SCHOOL DISTRICT'S MOTION TO COMPEL SUBPOENAED ENTITIES TO PRODUCE RECORDS.

The motion is denied, without prejudice to serve narrowly tailored subpoenas, and to obtain information Plaintiff volunteers to provide.

Moving party has not evidenced that all requested records are relevant, due to not identifying all content of all records. Instead, moving party is arguing in generalities about relevance, and speculating that specific, relevant information may be included within the broad scope of the requests (e.g., reply, 7:11 ("Records from these group homes may reflect....")). [Emphasis added.]

"Mere speculation as to the possibility that some portion of the records might be relevant to some substantive issue does not suffice" for showing direct relevance as to private information sought in discovery. Davis v. Sup. Ct. (1992) 7 Cal. App. 4th 1008, 1017-20 (directing trial court to grant motion to quash as to discovery request that was not narrowly drawn to enable the court to evaluate the appropriate extent of disclosure). Absent showings of direct relevance, compelling

need, and unavailability of alternative sources, a trial court only could find that a privacy interest prevails. Ombudsman Services of No. Cal. v. Sup. Ct. (2007) 154 Cal.App.4th 1233, 1251. Although discovery of other stressors may be relevant, the party seeking private information has the burden to show that the information is directly relevant to the claims, by identifying the specific emotional injuries claimed, and showing a nexus between the claimed damages and distress or other harm which may be shown by private information. *E.g.*, Brenda L. v. Sup. Ct. (1998) 65 Cal. App. 4th 794, 801-802.

Patients have a reasonable expectation of privacy as to their medical information that is not directly relevant to a particular condition the patient has placed in issue. California Consumer Health Care Council v. Kaiser Foundation Health Plan, Inc. (2006) 142 Cal. App. 4th 21, 31.

"In those situations where it is argued that a party waives protection by filing a lawsuit, the court must construe the concept of 'waiver' narrowly and a compelling public interest is demonstrated only where the material sought is directly relevant to the litigation." Tylo v. Sup. Ct. (1997) 55 Cal. App. 4th 1379, 1387. "[E]ven when a plaintiff files an action that places his or her medical records at issue, waivers of constitutional rights are narrowly construed and not lightly found." Bearman v. Sup. Ct. (2004) 117 Cal. App. 4th 463, 473. Waivers of constitutional rights, including privacy, are not lightly found, but are possible, depending on the circumstances. Heda v. Sup. Ct. (1990) 225 Cal. App. 3d 525, 530. *But see* Weil & Brown, Civ. Pro. Before Trial (The Rutter Group 2014) ¶8:319.2 (citing Boler v. Sup. Ct. (1987) 201 Cal.App.3d 467, 472. Implied waiver occurs when the objecting party places directly in issue privileged communications, but not when the party seeking discovery has placed them in issue by their filed documents. Aetna Casualty & Sur. Co. v. Sup. Ct. (1984) 153 Cal. App. 3d 467, 477.

Dated: 1/9/15

Gregory W. Alarcon

Gregory Alarcon
Superior Court Judge

03/13/2015

Law Offices

ALLRED, MAROKO & GOLDBERG

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

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MICHAEL MAROKO*
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JOHN S. WEST
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*A PROFESSIONAL CORPORATION
†ALSO ADMITTED TO NEW YORK BAR
◊ALSO ADMITTED TO WASHINGTON DC BAR

OF COUNSEL - NEW YORK
MARIANN WANG
(212) 620-2600

February 2, 2015

Via Federal Express

Opportunities for Learning
1160 Commerce Center Drive
Lancaster, CA 93534

Re: James Anthony Scott v. Los Angeles Unified School District
LASC Case No. BC547897

To Person Most Knowledgeable:

As you know, we represent James Anthony Scott in his lawsuit against Los Angeles Unified School District. Sheryl Rosenberg of Sedgwick, Deter, Moran & Arnold, on behalf of Defendant, recently served you a second time with another Deposition Subpoena for Production of Business Records regarding Mr. Scott. This subpoena is different from the first. The Court denied the first subpoena. Thus, the defense is now trying again to obtain records by narrowing the scope.

The purpose of this letter is to advise you that we are objecting on behalf of Mr. Scott to the production of these records, as they contain information we believe violates Mr. Scott's constitutional right of privacy. We intend to file a Motion to Quash with the Court before the date of production unless we can come to some agreement with the defense first (called "meet and confer") regarding the parameters of this latest subpoena or to withdraw it.

Therefore, do not produce any of the requested records until I advise you as to the outcome of our discussions and/or the Court has ruled on Mr. Scott's motion. Any production of such documents without a court order would be a violation of our client's privacy rights and could subject you to liability. We will notify you once the Court has decided whether these records should be produced.

03/13/2015

Should you have any questions regarding this matter, please do not hesitate to contact me. Thank you for your attention to this matter.

Very truly yours,

ALLRED, MAROKO & GOLDBERG

MARGERY N. SOMERS

MS:js
Enclosures
cc: Sheryl Rosenberg, Esq.

03/13/2015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Valerie Rojas (Bar No. 180041) / Anurita S. Varma (Bar No. 279486)
Sheryl Rosenberg (Bar No. 232862)
Sedgwick LLP, 801 S. Figueroa St., 19th Fl.
Los Angeles, CA 90017
TELEPHONE NO.: 213-615-8032 FAX NO.: 213-426-6921
E-MAIL ADDRESS: sheryl.rosenberg@sedgwicklaw.com
ATTORNEY FOR (Name): Los Angeles Unified School District

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS:
CITY AND ZIP CODE: Los Angeles, CA, 90012
BRANCH NAME: Stanley Mosk Courthouse

PLAINTIFF/PETITIONER: James Anthony Scott, et al.
DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.

DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

CASE NUMBER: BC 547897

THE PEOPLE OF THE STATE OF CALIFORNIA, TO ***(name, address, and telephone number of deponent, if known):***
Custodian of Records: Opportunities For Learning, 1160 Commerce Center Dr., Lancaster, CA 93534, (661) 951-3646

1. **YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:**

To *(name of deposition officer)*: Pike Photocopy, Inc., X395 (310) 397-0400
On *(date)*: February 17, 2015 At *(time)*: 10:00 a.m.
Location *(address)*: 4221 S. Sepulveda Blvd., Culver City, CA 90230

Do not release the requested records to the deposition officer prior to the date and time stated above.

a. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.

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c. ☒ by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.

2. *The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.*

3. The records to be produced are described as follows *(if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified):*

☒ Continued on Attachment 3.

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DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: January 26, 2015

Anurita S. Varma
(TYPE OR PRINT NAME)

▶ Anu S. Va
(SIGNATURE OF PERSON ISSUING SUBPOENA)

Atty for Def. Los Angeles Unified School District
(TITLE)

(Proof of service on reverse)

Form Adopted for Mandatory Use
Judicial Council of California
SUBP-010 [Rev. January 1, 2012]

Code of Civil Procedure, §§ 2020.410–2020.440;
Government Code, § 68097.1
www.courts.ca.gov

PLAINTIFF/PETITIONER: James Anthony Scott, et al. DEFENDANT/RESPONDENT: Los Angeles Unified School District, et al.	CASE NUMBER: BC 547897

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

1. I served this *Deposition Subpoena for Production of Business Records* by personally delivering a copy to the person served as follows:
   a. Person served *(name)*:
   b. Address where served:
   c. Date of delivery:
   d. Time of delivery:
   e. (1) ☐ Witness fees were paid:
      Amount:..... $ _____
      (2) ☐ Copying fees were paid.
      Amount:..... $ _____
   f. Fee for service:..... $ _____
2. I received this subpoena for service on *(date)*:
3. Person serving:
   a. ☐ Not a registered California process server.
   b. ☐ California sheriff or marshal.
   c. ☐ Registered California process server.
   d. ☐ Employee or independent contractor of a registered California process server.
   e. ☐ Exempt from registration under Business and Professions Code section 22350(b).
   f. ☐ Registered professional photocopier.
   g. ☐ Exempt from registration under Business and Professions Code section 22451.
   h. Name, address, telephone number, and, if applicable, county of registration and number:

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

Date:

▶ _____
(SIGNATURE)

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

▶ _____
(SIGNATURE)

American LegalNet, Inc.
www.FormsWorkFlow.com

James Anthony Scott, et al. v. Los Angeles Unified, et al.

Court Case No.: BC547897

ATTACHMENT "3"

Scott, James Anthony

D.O.B.: 09/03/98

Any and all documents, from January 1, 2010, to the Present, which evidence, reflect, discuss, mention, or comment upon the above-named person, including, but not limited to, those related to educational records, attendance, disciplinary actions, involvement in academic and non-academic activities, relationships with other individuals, bullying, emotional distress, mental disorders, mental illnesses, and general mood and emotional state.

Note: To the extent the records requested in this Attachment identify minors other than the above-named person, please redact the identities of those minors.

03/13/2015

36

Superior Court of California
County of Los Angeles
Department 36

FILED
Superior Court of California
County of Los Angeles
JAN 09 2015
Sherri R. Carter, Executive Officer/Clerk
By Cher Mason Deputy

SCOTT, Plaintiff(s), v. LOS ANGELES UNIFIED SCHOOL DISTRICT, Defendant(s).	Case No.: BC547897 Hearing Date: 1/9/15 **RULING RE:** DEFENDANT LOS ANGELES UNIFIED SCHOOL DISTRICT'S MOTION TO COMPEL SUBPOENAED ENTITIES TO PRODUCE RECORDS.

The motion is denied, without prejudice to serve narrowly tailored subpoenas, and to obtain information Plaintiff volunteers to provide.

Moving party has not evidenced that all requested records are relevant, due to not identifying all content of all records. Instead, moving party is arguing in generalities about relevance, and speculating that specific, relevant information may be included within the broad scope of the requests (e.g., reply, 7:11 ("Records from these group homes may reflect....")). [Emphasis added.]

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03/13/2015

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Patients have a reasonable expectation of privacy as to their medical information that is not directly relevant to a particular condition the patient has placed in issue. California Consumer Health Care Council v. Kaiser Foundation Health Plan, Inc. (2006) 142 Cal. App. 4th 21, 31.

"In those situations where it is argued that a party waives protection by filing a lawsuit, the court must construe the concept of 'waiver' narrowly and a compelling public interest is demonstrated only where the material sought is directly relevant to the litigation." Tylo v. Sup. Ct. (1997) 55 Cal. App. 4th 1379, 1387. "[E]ven when a plaintiff files an action that places his or her medical records at issue, waivers of constitutional rights are narrowly construed and not lightly found." Bearman v. Sup. Ct. (2004) 117 Cal. App. 4th 463, 473. Waivers of constitutional rights, including privacy, are not lightly found, but are possible, depending on the circumstances. Heda v. Sup. Ct. (1990) 225 Cal. App. 3d 525, 530. *But see* Weil & Brown, Civ. Pro. Before Trial (The Rutter Group 2014) ¶8:319.2 (citing Boler v. Sup. Ct. (1987) 201 Cal.App.3d 467, 472. Implied waiver occurs when the objecting party places directly in issue privileged communications, but not when the party seeking discovery has placed them in issue by their filed documents. Aetna Casualty & Sur. Co. v. Sup. Ct. (1984) 153 Cal. App. 3d 467, 477.

Dated: 1/9/15

Gregory W. Alarcon

Gregory Alarcon
Superior Court Judge

03/13/2015

03/13/2015

Legal Tabs Co. 1-800-322-3022

Recycled Stock # DECL-5-B

DECLARATION

03/13/2015

THE VILLAGE FAMILY SERVICES
6736 LAUREL CANYON BLVD., SUITE 200
NORTH HOLLYWOOD, CA 91606
818-755-8786

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JAMES ANTHONY SCOTT, Plaintiff, vs. LOS ANGELES UNIFIED, Defendant.	Case No.: BC547897 **DECLARATION OF DEBORAH HOFFMAN, PsyD RE OPPOSITION TO THE RELEASE OF RECORDS OF JAMES ANTHONY SCOTT**

DECLARATION OF DEBORAH HOFFMAN, PsyD

I, Deborah Hoffman, PsyD, do hereby declare:

1. The facts stated herein are within my personal knowledge except as to those matters which are stated on information and belief. As to those matters, I believe them to be true and if sworn as a witness, I could and would competently testify to the following:
2. I am employed by The Village Family Services where I am currently the Director of Outpatient Services. I am a licensed clinical psychologist, who has spent over 13 years treating and assessing a diversity of clients ages 3 to 95 from various cultural backgrounds in community health, corrections, residential setting and the private sector.
3. The plaintiff of the above case was a patient of The Village Family Services from May 3, 2013 to August 20, 2014 and from September 8, 2014 to October 15, 2014, the declarant has known the plaintiff's case at The Village Family Services since August 2013.

03/13/2015

4. I believe releasing records in this case could pose physical and/or psychosocial danger to the client and holds substantial risk of adverse consequences for the client, including adversely affecting the client's familiar relationship(s), functioning and well-being.
5. I believe it is my obligation to register my objection based on Health and Safety Code Section 123115.
6. I am requesting that the court review these records in camera prior to ordering the release of any records.

I declare under the penalty of perjury pursuant to the laws of the State of California the foregoing is true and correct. Executed in Los Angeles, CA

DATE:
January 7, 2015

Dr. Deborah Hoffman, Declarant

03/13/2015

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 years and not a party to the within action. My business address is: 6736 Laurel Canyon Blvd., Suite 200, North Hollywood, CA 91606.

On January 8, 2015, I served the foregoing documents described as:

DECLARATION OF DEBORAH HOFFMAN, PSYD RE OPPOSITION TO THE RELEASE OF RECORDS OF JAMES ANTHONY SCOTT

on the interested parties in this action as follows:

SHERYL M. ROSENBERG 801 S. FIGUEROA STREET, 19TH FL LOS ANGELES, CA 90017-5556 FACSIMILE: 213-426-6921	MARGERY SOMERS 6300 WILSHIRE BLVD #1500 LOS ANGELES, CA 90048 FACSIMILE: 323-653-1660

I transmitted by facsimile transmission the above document to the above attorney and receiving facsimile numbers. The sending facsimile machine I used, with facsimile number (818)755-8786 complied with C.R.C. Rule 2003(3). The transmissions were reported as complete and without error.

In addition, I placed a true copy thereof enclosed in sealed envelopes and I caused such envelope to be delivered by hand to the addressee(s) listed above.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

EXECUTED on January 8, 2015 at North Hollywood, California.

Krista S. Gonzalez

03/13/2015

03/13/2015

Legal Tabs Co. 1-800-322-3022

Recycled Stock # DECL-5-B

DECLARATION

03/13/2015

DECLARATION OF JAMES ANTHONY SCOTT

GLORIA ALLRED, SBN 65033
NATHAN GOLDBERG, SBN 61292
MARGERY N. SOMERS, SBN 174052
LAW OFFICES
ALLRED, MAROKO & GOLDBERG
6300 WILSHIRE BOULEVARD, SUITE 1500
LOS ANGELES, CALIFORNIA 90048-5217
Telephone No. (323) 653-6530
Facsimile No. (323) 653-166
msomers@amglaw.com

Attorneys for Plaintiff JAMES ANTHONY SCOTT

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JAMES ANTHONY SCOTT, a minor, appearing through AMBER BAKER, his Guardian ad Litem, Plaintiff, vs. LOS ANGELES UNIFIED SCHOOL DISTRICT; and DOES 1 through 50, inclusive, Defendants.	CASE NO.: BC547897 (Assigned to Hon. Gregory Alarcon) **DECLARATION OF JAMES ANTHONY SCOTT IN SUPPORT OF MOTION TO COMPEL DEFENDANT'S DOCUMENTS** Date: January 9, 2015 Time: 8:30 a.m. Dept.: 36 Trial Date: September 24, 2015

I, James Anthony Scott, aka Shear Avory, declare as follows:

1. I am 16 years of age and am a resident of the Clark County, State of Nevada. The following is true of my own personal knowledge. If called, I could and would competently testify thereto.

2. During the Spring of 2013, I was under the purview of the Department of Child and Family Services ("DCFS").

03/13/2015

3. At this time, I resided at Los Angeles Youth Network ("LAYN"), a youth shelter and group home in Hollywood., California. In the Summer of 2013, eager to begin Daniel Pearl Magnet High School ("DPMHS"), I moved and resided at Penny Lane, a group home, in the San Fernando Valley so that I could attend and be closer to school. I returned home and lived with my mother on October 18, 2013 and continued to attend DPMHS during the Fall when I was bullied and was not protected by LAUSD. I received no mental health services at Penny Lane, Group Home.

4. LifeWorks is the Youth Development And Mentoring Program of The Los Angeles LGBT Center (formerly named the Los Angeles Gay and Lesbian Center). They have workshops, events and programs. It is not a mental health clinic and I never received mental health services from there.

5. I began attending LifeWorks' programs in 2011 and became heavily involved as an activist and humanitarian in my community.

6. I soon became a Peer Mentor at Lifeworks and in 2012 I became the Supervising Peer Mentor and I ran workshops, created and scheduled events and programs, developed events, became a member of various committees, and spoke at the Los Angeles Gay and Lesbian Center's 41st Anniversary Gala in 2012. Again, Lifeworks does not provide mental health services and I never received mental health services from Lifeworks.

7. Before attending DPMHS, I maintained excellent grades averaging mostly A's and a few, if any B's.

8. While attending DPMHS, I was unable to focus in class and at home due to the continuous torment, harassment and lack of protection from LAUSD administrators.

9. My grades suffered tremendously as a result of the harassment and in the semester that I attended DPMHS I was unable to excel in my education as I had previously and my grades went down.

10. Upon transferring from DPMHS to my new school, I began to prosper and scored a 450 out of 450 on the English California High School Exit Exam and a 390 out of 450 on the Mathematics California High School Exit Exam.

03/13/2015

11. I was not enrolled at DPMHS prior to or during my residence at Los Angeles Youth Network.

12. I moved to and resided at Penny Lane in the San Fernando Valley to attend DPMHS. This was my housing – my residential placement only. Again, no mental health services were received there.

13. The only mental health services that I received once I returned home were from Maurice Zeitlin, MD and Therapist Carlos Lach.

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

Executed on this 18th day of December 2014 at Clark County, Nevada.

By: _____
James Anthony Scott

03/13/2015

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: 6300 Wilshire Boulevard, Suite 1500, Los Angeles, California 90048.

On December 19, 2014, I served the foregoing document described as **DECLARATION OF JAMES ANTHONY SCOTT IN SUPPORT OF MOTION TO COMPEL DEFENDANT'S DOCUMENTS** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Attorneys for Defendant LOS ANGELES UNIFIED SCHOOL DISTRICT

SEDGWICK LLP
CRAIG BARNES, ESQ.
craig.barnes@sedgwicklaw.com
SHERYL ROSENBERG, ESQ.
sheryl.rosenberg@sedgwicklaw.com
801 S. Figueroa Street, 19th Floor
Los Angeles, California 90017
Telephone: (213) 426-6900
Facsimile: (213) 426-6921

[ ] BY MAIL: I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California.

[ ] BY PERSONAL SERVICE: I caused such envelope to be hand-delivered to the offices of the addressee(s).

[ ] BY FAX: by transmitting a true copy via facsimile transmission from telecopier number (323) 653-1660 located at 6300 Wilshire Blvd., Ste. 1500, Los Angeles, California 90048.

[ ] BY EMAIL: I caused such document to be electronically served via email to the email address of the addressee(s).

[X] BY FEDERAL EXPRESS: I caused such document(s) to be delivered via Federal Express in a package designated to be picked up by Federal Express with delivery fees provided for to the addressee(s) designated. I am readily familiar with the business practice of collecting and processing correspondence to be picked up by an employee of Federal Express.

Executed on December 19, 2014, at Los Angeles, California.

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

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

JENNIFER SHUEMAKER

03/13/2015

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: 6300 Wilshire Boulevard, Suite 1500, Los Angeles, California 90048.

On March 12, 2015, I served the foregoing document described as **PLAINTIFF JAMES ANTHONY SCOTT'S MOTION TO QUASH DEFENDANT LOS ANGELES UNIFIED SCHOOL DISTRICT'S SUBPOENAED ENTITIES TO PRODUCTION OF RECORDS – SECOND SET; DECLARATION OF JAMES ANTHONY SCOTT, DECLARATION OF MARGERY N. SOMERS AND DECLARATION OF DR. DEBORAH HOFFMAN** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Attorneys for Defendant LOS ANGELES UNIFIED SCHOOL DISTRICT

SEDGWICK LLP
CRAIG BARNES, ESQ.
craig.barnes@sedgwicklaw.com
SHERYL ROSENBERG, ESQ.
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[ ] (Federal) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service ~~is made~~.

JENNIFER SHUEMAKER