

1 LAW OFFICES OF IAN WALLACH, P.C.
2 IAN M. WALLACH (SBN 237849)
3 iwallach@wallachlegal.com
4 5777 W. Century Blvd., Ste. 750
Los Angeles, CA 90045
Telephone: (213) 375-0000
Facsimile: (213) 402-5516

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
VICTORVILLE DISTRICT

AUG 23 2023

BY: Wendy Barnes
WENDY BARNES, DEPUTY

5 KAEDIAN LLP
6 KATHERINE C. MCBROOM (SBN 223559)
7 kmcbroom@kaedianllp.com
8 8383 Wilshire Blvd., Ste. 210
9 Beverly Hills, CA 90211
Telephone: (310) 893-3372
Facsimile: (310) 893-3191

10 Attorneys for Defendant,
11 PEDRO MARTINEZ

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF SAN BERNARDINO**

14 THE PEOPLE OF THE STATE OF
15 CALIFORNIA,

16 Plaintiff,

17 v.

18
19
20 PEDRO MARTINEZ,

21 Defendant.

Case: FVI19000218

**DEFENDANT PEDRO MARTINEZ'
NOTICE OF MOTION AND MOTION
TO DISMISS WITH PREJUDICE;
DECLARATION OF KATHERINE
MCBROOM; EXHIBITS**

Date:
Time:
Dept.:

22
23 **TO THE HONORABLE JUDGE OF THE ABOVE-ENTITLED COURT AND THE**
24 **DISTRICT ATTORNEY OF SAN BERNARDINO COUNTY AND/OR HIS**
25 **REPRESENTATIVES:**

26 **PLEASE TAKE NOTICE** that on a date and time to be determined by the trial court,
27 in a Department to be determined of the above-entitled Court, or soon thereafter as the matter
28 may be heard, Defendant Pedro Martinez ("Mr. Martinez") will move this Court an order


1 dismissing the operative Information with prejudice. The grounds will be that based on the
2 Court's July 14, 2023 unilateral, *sua sponte* discovery order, requiring defense counsel to
3 produce, to the People, a list of all potential witnesses (including potential impeachment
4 witnesses) and a report as to each, violated Mr. Martinez' due process rights guaranteed under
5 the Fifth and Fourteenth Amendments to the United States Constitution and article I, section
6 15, of the California Constitution.

7 The Court's order resulted in material and uncurable prejudice to Mr. Martinez'
8 defense.

9 This Motion is based on the Points and Authorities attached hereto, the Declaration of
10 Katherine C. McBroom attached here, and exhibits thereto, all papers and documents in the
11 Court's file, and any evidence and/or oral argument that may be presented at the hearing on
12 this matter.

13 DATED: August 23, 2023

KAEDIAN LLP

14
15 By: 
16 IAN M. WALLACH
17 KATHERINE C. MCBROOM
18 Attorneys for Defendant
19 PEDRO MARTINEZ
20
21
22
23
24
25
26
27
28

1 I.

2 **INTRODUCTION**

3 Defendant Pedro Martinez (“Mr. Martinez”) faces life in prison for arguably the most
4 heinous crime by society’s standards – multiple allegations of child molestation. The People
5 alleged that Mr. Martinez, a school custodian, repeatedly assaulted two students during the
6 school day.

7 The sole evidence against Mr. Martinez are unreliable statements of two complaining
8 witnesses, both of whom repeatedly denied abuse until confronted with suggestive, leading, and
9 coercive questioning by law enforcement officers and social workers.

10 There is absolutely no physical evidence, including DNA evidence, of the alleged abuse
11 and Mr. Martinez has consistently, repeatedly denied any misconduct.

12 On July 14, 2023, during a hearing on the People’s Motion to Compel Expert
13 Discovery (specifically the results of any forensic testing), the pretrial court made a *sua*
14 *sponte*, unilateral discovery order that went far beyond the relief sought in the People’s
15 Motion and violated Mr. Martinez due process rights. Among other things, the court ordered
16 the defense to produce a list of all witnesses (including impeachment witnesses) with
17 corresponding statements/reports to the People within two court days and stated that anything
18 not produced to the People would be excluded at trial. The July 14, 2023 minute order states:

- 19 (1) The Defense “will be limited [at trial] to the information that has been turned over the
20 People.”
- 21 (2) Defense represents nurse Judy Malmgren will testify as to SART reports. Court orders
22 Defense to provide Judy Malmgren's conclusions and basis of conclusions to the
23 People.
- 24 (3) Defense represents Dr. Bradley McAuliff will testify as to the review of children's
25 memory. Court orders defense to provide conclusions Dr. Bradley McAuliff will
26 testify to to the People.
- 27 (4) Court orders defense to provide conclusions Robin Sax intends to testify to including
28 how those conclusions were reached as to each victim.

1 (5) Court orders defense to provide an exact copy of records received from Child Family
2 Services.

3 (6) Court orders defense to provide a list of witnesses with date of birth and report for
4 each person.

5 (7) Defense counsel represents there are 22 witnesses and information will be provided
6 to the People by 7/18/2023.

7 Given the impending trial date, the limited time that was provided to comply, and Mr.
8 Martinez' custody status, the defense complied.

9 On July 28, 2023, the People filed a Further Motion to Compel arguing that the defense
10 had not complied with expert disclosure obligations and requesting exclusion of the experts at
11 trial and sanctions. In his Opposition, Mr. Martinez described how he indeed complied with his
12 obligations as well as the Court's July 14, 2023 discovery order. The defense further argued that
13 the July 14, 2023 order was unlawful, violated Mr. Martinez' due process rights, and impinged
14 upon the attorney-work product privilege.

15 The Court addressed the People's Further Motion for Discovery on August 1, 2023.
16 Prior to issuing a ruling, the Court stated that she was only addressing discovery as a courtesy
17 and would not make binding decisions concerning admissibility of evidence or sanctions. The
18 Court denied the People's Further Motion and found that Mr. Martinez had complied with expert
19 discovery obligations. While the Court's ruling was favorable to the defense, its unlawful July
20 14, 2023 discovery order had irreversibly and materially prejudiced Mr. Martinez such that he
21 cannot get a fair trial. At the August 1, 2023 hearing, the Court did not address her prior July
22 14, 2023 order or comment as to whether it was unlawful. It was.

23 Most problematic are the orders requiring the defense only to produce all witnesses,
24 without limitation, to the People and that any witnesses/evidence not disclosed would be
25 excluded from trial. The orders are unlawful for several reasons:

- 26 • First, a pretrial judge cannot make evidentiary rulings that are binding on the trial
27 court.

28

- Second, the orders required the defense to turn over impeachment evidence and witnesses who the defense has not yet determined it was likely to call at trial.
- Third, the orders are violative of the attorney work product privilege - the summaries of all witnesses necessarily called for disclosure of attorney analyses and strategy.

The People were not and are not entitled to this information.

The damage resulting from the Court’s unlawful order cannot be undone. The People are now in possession of a road map to Mr. Martinez’ defense at trial. This is compounded by the fact that, as of the date of this Motion, the People have failed to produce a trial brief, witness list, exhibit list, or to comply with expert discovery obligations under Penal Code section 1054.1(f). With all of Mr. Martinez’ cards on the table, the People are in a position to tailor their case to account for Mr. Martinez’ defense. The defense, on the other hand, is in the dark.

Mr. Martinez has suffered material prejudice as a result. There is no limiting instruction or other restriction that can cure or begin to rectify the injustice he’s already suffered. Moreover, upon information and belief, the People have reached out to one or more of the witnesses identified pursuant to the Court’s July 14, 2023 order, and one of which has since expressed discomfort about testifying.

Because the Court’s July 14, 2023 Order will deprive Mr. Martinez of a fair trial, he is entitled to a dismissal of the operative Information with prejudice.

II.

STATEMENT OF FACTS

As detailed in Mr. Martinez’ Witness List, filed with this Court on July 18, 2023 (pursuant to the court’s July 14, 2023 order), between December 2022 and June 2023, the defense has provided voluminous discovery materials to the People which include a number of potential defense witnesses, including impeachment witnesses. (Declaration of Katherine C. McBroom [“McBroom Decl.”], ¶ 2.) The defense went so far as to produce impeachment materials, including various deposition transcripts (taken in the parallel civil matters) of law enforcement witnesses, lay witnesses, and the complaining witnesses to avoid trial delays and

1 to avoid any accusations of impropriety or sandbagging by the People. (*Id.*, ¶ 3.) Additionally,
2 the defense provided the People with the complaining witnesses’ DCFS records (which the
3 People declined to request or obtain). The DCFS records contain the identities of multiple
4 potential witnesses within the relevant time period. (*Id.*, ¶ 4.)

5 As for expert discovery, on April 4, 2023, the defense disclosed the identities, curriculum
6 vitae, qualifications, and anticipated testimony of four expert witnesses. (*Id.*, ¶ 5.) The defense
7 has supplemented expert disclosures by listing all documents reviewed by each of the four
8 experts and specifying the focus of each expert’s testimony – *i.e.*, suggestive questioning of
9 complaining witnesses; violation of POST training. (*Id.*, ¶ 6.)

10 To date the defense has filed the following trial documents:

11 (1) Motion to Admit Prior Sexual Conduct Pursuant to Penal Section 782 and Under Seal

12 Detailed Declaration with Exhibits, including Voluminous DCFS records – Filed May
13 5, 2023

14 (2) Motion for Use of Jury Questionnaire – Filed May 5, 2023

15 (3) Trial Brief and Motions in Limine – Filed July 18, 2023

16 (4) Witness List (pursuant to Court’s July 14, 2023 Order) – Filed July 18, 2023.

17 (*Id.*, ¶ 7.)

18 To date the People have not filed any trial documents nor have they informally disclosed
19 their trial witnesses or an exhibit list to the defense. (*Id.*, ¶ 8.)

20 Further, the People have not provided code compliant expert disclosures. Rather, on May
21 28, 2023, DDA Pribble disclosed the names of four potential witnesses, the witnesses’
22 curriculum vitae, and 6 categories of testimony. (*Id.*, ¶ 9.) The People did not disclose the
23 experts’ intended testimony (other than providing a topic), nor did she disclose which expert
24 would testify as to which topic. (*Ibid.*) The People have not provided supplemental, code-
25 compliant disclosures despite several requests. (*Id.*, ¶ 10.)

26 On June 16, 2023, the People filed a Motion to Compel seeking production of “relevant
27 raw notes, raw data, test scores etc. from any and all physical or mental evaluations of the
28 Defendant that fall within the ambit of §1054.3.” (*Id.*, ¶ 11; see also People’s Motion to Compel,

1 p. 3.) On July 14, 2023, the Court addressed the People’s June 16, 2023 Motion (*Id.*, ¶ 12.)
2 Neither the hearing nor the Court’s July 14, 2023 order was limited to the relief sought in the
3 People’s Motion to Compel. (*Ibid.*)

4 During the July 14, 2023 hearing, in addition to stating that she did not have the
5 “conclusions” of defense expert witnesses, DDA Pribble stated that the defense had informed
6 her “they have 55 witnesses they intend to call” and that she has no idea who these witnesses
7 are. (*Id.*, ¶ 13, Exh. A, Transcript of July 14, 2023 Hearing). In fact, the defense had served
8 several trial subpoenas to individuals named in documents provided to the People months prior.
9 (*Id.*, ¶ 14.) Moreover, each and every fact witness the defense intends to call were identified by
10 the People in its discovery and were interviewed by the law enforcement agents working with
11 the People. (*Ibid.*) This is detailed in Mr. Martinez’ Witness List filed on July 18, 2023.

12 However, until the defense receives a People’s witness list, a trial brief, motions *in limine*,
13 an exhibit list, and perhaps even the People’s case in chief, the defense cannot ascertain every
14 witness they intend to call. (*Id.*, ¶ 15.) Lay witnesses were not the subject of the People’s Motion
15 to Compel. The Court ruled on this issue *sua sponte*.

16 On July 14, 2023, the Court made the following orders:

- 17 (1) The Defense “will be limited [at trial] to the information that has been turned over
18 the People.”
- 19 (2) Defense represents nurse Judy Malmgren will testify as to SART reports. Court
20 orders Defense to provide Judy Malmgren's conclusions and basis of conclusions
21 to the People.
- 22 (3) Defense represents Dr. Bradley McAuliff will testify as to the review of children's
23 memory. Court orders defense to provide conclusions Dr. Bradley McAuliff will
24 testify to to the People.
- 25 (4) Court orders defense to provide conclusions Robin Sax intends to testify to
26 including how those conclusions were reached as to each victim.
- 27 (5) Court orders defense to provide an exact copy of records received from Child
28 Family Services.

1 (6) Court orders defense to provide a list of witnesses with date of birth and report for
2 each person.

3 (7) Defense counsel represents there are 22 witnesses and information will be
4 provided to the People by 7/18/2023.

5 (*Id.*, ¶ 16, Exh. B, July 14, 2023 Minute Order.)

6 On July 18, 2023, the defense, pursuant to the Court's July 14, 2023 order, filed a detailed
7 witness list summarizing the anticipated testimony of each potential witness and the date upon
8 which relevant materials were produced to the People. (*Id.*, ¶ 17.) The same day, also pursuant
9 to the Court's July 14, 2023 order, the defense provided DDA Pribble a detailed supplemental
10 expert discovery disclosure. (*Ibid.*) The defense also filed and served Mr. Martinez' trial brief
11 and motions in limine. (*Ibid.*)

12 On July 27, 2023, the People filed a Further Motion to Compel Discovery claiming that
13 Mr. Martinez' expert disclosure did not comply with Penal Code section 1054.3 and requesting
14 exclusion of Mr. Martinez' expert witnesses at trial and sanctions against the defense. (*Id.*, ¶
15 18.) The defense filed its Opposition on July 31, 2023 stating that the defense had complied
16 with all discovery obligations and that the Court's July 14, 2023 unilateral, *sua sponte* discovery
17 order violated Mr. Martinez' due process rights. (*Id.*, ¶ 19.)

18 On August 1, 2023, the Court ruled on the People's Further Motion for Discovery. (*Id.*,
19 ¶ 20, Exh. C, Transcript of August 1, 2023 Hearing.) The Court began the hearing by stating:

20 So today we are here today just to address these issues regarding discovery. I'm
21 just going to note, and I want the minute order to reflect this, I'm dealing with this
22 discovery issue as courtesy to everyone. This is not my case. This case came off
the recall calendar. I am doing nothing except for this portion of it.

23 I am specifically going to note nothing that I am going to say is going to be binding
24 on the trial court regarding admissibility or sanctions. I am just dealing. . . with
what is in front of me and what is not in front of me.

25 (*Id.*, Exh. C, 3:27-4:12.)

26 With regard to three defense expert witnesses, the Court inquired of the People what more
27 specifically they were seeking and why they regarded the production as deficient. (*Id.*, Exh. C,
28 4:24-14:28.) After hearing from defense counsel and reviewing all pleadings and exhibits, the

1 Court determined that the defense was in compliance with its discovery obligations as to all
2 three expert witnesses. (*Ibid.*) The Court did not comment on her previous order or whether it
3 was unlawful.

4 Since July 18, 2023, the People, as a result of the Court’s July 14, 2023 Order, have been
5 in possession of all Mr. Martinez’ potential trial witnesses, including impeachment witnesses
6 and summaries as to how each potential witness will testify.

7 Mr. Martinez must be brought to trial on or before September 3, 2023. (McBroom, ¶ 21.)
8 As of this date, days before trial is to commence, the People are in possession of all of Mr.
9 Martinez’ impeachment evidence, all potential witnesses, the defense trial brief and motions in
10 limine, all evidence related to prior acts of sexual conduct of the complaining witnesses, and
11 detailed expert witness information.

12 In contrast, the People have not filed or served one trial document, have not informally
13 or otherwise disclosed anticipated trial witnesses, and have failed to specify which of four
14 experts will testify as to which of the 6 topics listed.

15 III.

16 ARGUMENT

17 **A. The Court’s Unilateral *Sua Sponte* Order Requiring the Defense to Disclose** 18 **Witnesses Prior to the Case Being Assigned to a Trial Court and Prior to the** 19 **People Filing a Trial Brief, Motions in Limine and/or a Witness List and/or** 20 **Exhibit List Contradicts Well-Established California Precedent**

21 The Court’s July 14, 2023 unilateral, *sua sponte* discovery orders based on the People’s
22 in-court representations of alleged non-compliance are contrary to the reciprocal discovery
23 obligations under Penal Code sections 1054.3, subdivision (a)(1) and 1054.7, violated Mr.
24 Martinez’ due process rights, and are violative of the attorney-work product privilege. As a
25 result, Mr. Martinez cannot receive a fair trial. These orders called for disclosure of all defense
26 witnesses, including witnesses who the defense has not yet determined it is likely to call and
27 impeachment witnesses, or else risk exclusion at trial. These orders were issued without notice
28 and over objection. Further, the Court clarified that its orders were unilateral (they did *not* apply
to the People), asserting that the issue of the People’s compliance was not before the Court.
Neither, however, was any issue related to witnesses subject to the Court’s July 14, 2023 order.

1 The Defense did not concede that the order was correct but, given the fast approaching
2 trial date, the limited time that was provided to comply, and Mr. Martinez' custody status, the
3 complied.

4 **1. The Court's July 14, 2023 Order Violated Mr. Martinez' Due Process**
5 **Rights**

6 The first of the orders issued on July 14, 2023 was that the "Defense will be limited [at
7 trial] to the information that has been turned over to the People." This order is unlawful. A pre-
8 trial judge cannot make evidentiary rulings that are binding on the trial court. (*People v. Hayes*,
9 (1990), 52 Cal. 3d. 577, 616-617 (citing *People v. Superior Court (Zolnay)*(1975) 15 Cal.3d
10 729, 734); *People v. Beasley* (1967) 250 Cal.App.2d 71, 77.)

11 Moreover, this order required the defense to turn over impeachment evidence. This
12 portion of the Court's *sua sponte* order was unlawful, shifted the burden of proof from the
13 prosecution to the defense, and violated the defendant's due process rights. "[S]tatements [the
14 defense] obtain[ed] from prosecution witnesses that may be used to refute the prosecution's
15 case during cross-examination" do not need to be disclosed prior to trial. (*Hubbard v.*
16 *Superior Court* (1997) 66 Cal.App.4th 1163 (stating "the defense is not required to disclose
17 statements it obtains from prosecution witnesses that may be used to refute the prosecution's
18 case during cross-examination").)

19 Further, under Penal Code sections 1054.3, subdivision (a)(1) and 1054.7, the defense is
20 required to disclose the names and addresses of trial witnesses it **intends to call as trial**
21 **witnesses** at least 30 days before trial. However, as noted in *People v. Landers* (2019) 31
22 Cal.App.5th 288, 306:

23 [I]n some cases. . .the obligation to disclose may arise later. Where disclosable
24 'material and information becomes known to, or comes into the possession of, a
25 party within 30 days of trial, disclosure shall be made immediately[.]' This timing
26 regime, in effect, creates a continuing duty of disclosure beginning 30 days prior
27 to trial and running through trial to its conclusion.

28 *Landers* continued:

While the defense obligation to provide discovery is a pure creature of statute, in
the absence of which, there can be no discovery, the corresponding prosecutorial
obligation to disclose goes beyond Chapter 10 under *Brady v. Maryland* (1963)

1 373 U.S. 83. It must also be kept in mind that law enforcement officers have the
2 obligation to convict the guilty and to make sure they do not convict the innocent.
3 They must be dedicated to making the criminal trial a procedure for the
ascertainment of the true facts surrounding the commission of the crime. . . while
defense counsel has no comparable obligation to ascertain or present the truth.

4 (*Id.* at 308 [internal quotations and citations omitted].)

5 In *Landers*, a week before trial, the court ordered reciprocal discovery production. (*Id.* at
6 298.) Upon issuing its order, the Court stated that “counsel should produce all witness
7 statements of which they are aware, whether written or not.” (*Ibid.*) A dispute arose during trial
8 wherein the People accused defense counsel of violating the court’s order by failing to produce
9 a defense investigator’s interview of a potential trial witness. *Landers* found there was no
10 discovery violation and that defense counsel was improperly sanctioned. (*Id.* at 319-23.)

11 Regarding the reciprocal discovery requirements under Penal Code section 1054, the
12 Court stated:

13 Chapter 10 is designed to be an exclusive statutory vehicle for discovery in
14 criminal cases (See § 1054, subd. (e) [“no discovery shall occur in criminal cases
15 except as provided by this chapter, other express statutory provisions, or as
16 mandated by the Constitution of the United States”]; § 1054.5 [“[n]o order
17 requiring discovery shall be made in criminal cases except as provided in this
18 chapter”.] **Thus, courts are “preclude[d]. . .from broadening the scope of
19 discovery beyond that provided in the chapter or other express statutory
20 provisions, or as mandated by the federal Constitution. . . .[I]f none of those
21 authorities requires disclosure of a particular item of evidence, [courts] are
22 not at liberty to create a rule imposing such a duty.”** (*People v. Tillis* (1998) 18
Cal.4th 284, 294 (*Tillis*). **Construing the statutory language strictly in accord
with section 1054, subdivision (e), our Supreme Court has repeatedly
confined discovery obligations under Chapter 10 to those expressly set forth
in the statutory language.**

23 (*Id.* at 305 [emphasis added].) The Court continued:

24 As a practical matter, therefore, section 1054.3 does not create a symmetrical
25 scheme of discovery, at least not in the sense of an exact match on both sides.
26 Chapter 10 creates a *nearly* symmetrical scheme of discovery . . .with any
imbalance favoring the defendant as required by reciprocity under the due process
clause.

27 (*Id.* at 308 [internal quotations and citations omitted].)

28

1 Indeed, pursuant to *Izazaga* (1991), 54 Cal.3d 365, a seminal case addressing reciprocity
2 under the due process clause, “intent to call a witness” as described in section 1054 means “all
3 witnesses [a party] reasonably anticipates it is likely to call.” (*Id.* at 377.) The duty to disclose
4 is not triggered by knowledge of a witness or individual who is reasonably anticipated to be a
5 trial witness. Whether or not the witness is *likely* to be called is the triggering event. The Court
6 here did not make this distinction, but rather made a unilateral discovery order requiring the
7 defense to expose the entirety of their defense to the prosecution. This is improper burden
8 shifting. The People are now in the position to tailor their case in chief to account for any
9 “anticipated witnesses.”

10 As set forth in *Sandeff v. Sup. Crt.* (1993) 18 Cal.App.4th 672, 678, “the determination
11 whether to call a witness is peculiarly within the discretion of counsel.” (*Id.* at 678.) “Even
12 when counsel appear to be unreasonably delaying the publication of his decision to call a
13 witness. . . it cannot be within the province of the trial judge to step into his shoes.” (*Ibid.*)
14 *Landers* commented that *Sandeff* calls “for deference to defense counsel’s discretionary
15 judgment about whether to call witnesses.” (*Landers, supra*, 31 Cal.App.5th at 317.)

16 Here, the Court has stripped defense counsel of its discretionary judgment and forced
17 disclosure of potential defense witnesses prior to the People putting on their case, let alone
18 producing pretrial documents, including a witness list of its own. This unilateral, *sua sponte*
19 discovery requirement interfered with defense counsel’s duty of loyalty to Mr. Martinez and is
20 clear error in violation of Mr. Martinez’ due process rights. No limiting instruction or other
21 remedy can undue the damage done.

22 Accordingly, Mr. Martinez is entitled to dismissal of the operative Information with
23 prejudice.

24 **2. The Court’s July 14, 2023 Order is Violative of the Attorney Work**
25 **Product Privilege**

26 *Landers, supra*, 31 Cal.App.5th 288 held that the trial court’s order requiring the
27 reciprocal disclosure of all exculpatory information gathered in the course of investigation “went
28 beyond the court’s statutory authority, invading core work product.” (*Id.* at 323-24.) The same

1 is true here. The court's July 14, 2023 unilateral, *sua sponte* order required defense counsel to
2 cull through reports (provided by the People) as well as sworn testimony (provided to the People
3 several months ago) to report intended testimony. Defense counsel necessarily had to reveal its
4 thoughts and conclusions about the intended trial testimony. The People were not and are not
5 entitled to this information.

6 The fact that the People now have this information, as a result of the Court's order, cannot
7 be cured. Mr. Martinez cannot receive a fair trial. He has been denied an opportunity to defend
8 the very serious allegations against him in violation of his due process rights. A dismissal with
9 prejudice is warranted.

10 IV.
11 CONCLUSION

12 For the reasons stated herein, Mr. Martinez respectfully requests that this Court order
13 this matter dismissed with prejudice.

14 DATED: August 23, 2023

KAEDIAN LLP

15
16 By: Katherine McBroom
17 KATHERINE C. MCBROOM
18 Attorney for Defendant
19 PEDRO MARTINEZ
20
21
22
23
24
25
26
27
28

DECLARATION

1 **DECLARATION OF KATHERINE C. MCBROOM**

2 I, Katherine C. McBroom, declare as follows:

3 1. I am an attorney duly admitted to practice law in the State of California and am an
4 attorney for Defendant Pedro Martinez (“Mr. Martinez”) in the above-entitled matter. I make
5 this declaration in support of Mr. Martinez’s Motion to Admit Evidence of Prior Sexual Conduct
6 Pursuant to Evidence Code section 782.

7 2. As detailed in Mr. Martinez’ Witness List, filed with this Court on July 18, 2023
8 (pursuant to the court’s July 14, 2023 order), between December 2022 and June 2023, the
9 defense has provided voluminous discovery materials to the People which include a number of
10 potential defense witnesses, including impeachment witnesses.

11 3. The defense went so far as to produce impeachment materials, including various
12 deposition transcripts (taken in the parallel civil matters) of law enforcement witnesses, lay
13 witnesses, and the complaining witnesses to avoid trial delays and to avoid any accusations of
14 impropriety or sandbagging by the People.

15 4. Additionally, the defense provided the People with the complaining witnesses’
16 DCFS records (which the People declined to request or obtain). The DCFS records contain the
17 identities of multiple potential witnesses within the relevant time period.

18 5. As for expert discovery, on April 4, 2023, the defense disclosed the identities,
19 curriculum vitae, qualifications, and anticipated testimony of four expert witnesses.

20 6. The defense has supplemented expert disclosures by listing all documents
21 reviewed by each of the four experts and specifying the focus of each expert’s testimony – i.e.,
22 suggestive questioning of complaining witnesses; violation of POST training.

23 7. To date the defense has filed the following trial documents:

24 (a) Motion to Admit Prior Sexual Conduct Pursuant to Penal Section 782 and
25 Under Seal Detailed Declaration with Exhibits, including Voluminous DCFS
26 records - Filed May 5, 2023;

27 (b) Motion for Use of Jury Questionnaire - Filed May 5, 2023;

28 (c) Trial Brief and Motions in Limine - Filed July 18, 2023;

1 (d) Witness List (pursuant to Court's July 14, 2023 Order) - Filed July 18, 2023.

2 8. To date the People have not filed any trial documents nor have they informally
3 disclosed their trial witnesses or an exhibit list to the defense.

4 9. Further, the People have not provided code compliant expert disclosures. Rather,
5 on May 28, 2023, DDA Pribble disclosed the names of four potential witnesses, the witnesses'
6 curriculum vitae, and 6 categories of testimony. The People did not disclose the experts'
7 intended testimony (other than providing a topic), nor did she disclose which expert would
8 testify as to which topic.

9 10. The People have not provided supplemental, code-compliant disclosures despite
10 several requests.

11 11. On June 16, 2023, the People filed a Motion to Compel seeking production of
12 "relevant raw notes, raw data, test scores etc. from any and all physical or mental evaluations of
13 the Defendant that fall within the ambit of §1054.3."

14 12. On July 14, 2023, the Court addressed the People's June 16, 2023 Motion. Neither
15 the hearing nor the Court's July 14, 2023 order was limited to the relief sought in the People's
16 Motion to Compel.

17 13. During the July 14, 2023 hearing, in addition to stating that she did not have the
18 "conclusions" of defense expert witnesses, DDA Pribble stated that the defense had informed
19 her "they have 55 witnesses they intend to call" and that she has no idea who these witnesses
20 are. Attached here as Exhibit A is a true and correct copy of the July 14, 2023 hearing transcript.

21 14. In fact, the defense had served several trial subpoenas to individuals named in
22 documents provided to the People months prior. Moreover, each and every fact witness the
23 defense intends to call were identified by the People in its discovery and were interviewed by
24 the law enforcement agents working with the People.

25 15. Until the defense receives a People's witness list, a trial brief, motions in limine,
26 an exhibit list, and perhaps even the People's case in chief, the defense cannot ascertain every
27 witness they intend to call.

28

1 16. On July 14, 2023, the Court made unilateral, *sua sponte* discovery orders
2 demanding the defense produced all witness statements with reports to the People or risk
3 exclusion of witnesses/evidence at trial. Attached here as Exhibit B is a true and correct copy of
4 the Court's July 14, 2023 Minute Order.

5 17. On July 18, 2023, the defense, pursuant to the Court's July 14, 2023 order, filed a
6 detailed witness list summarizing the anticipated testimony of each potential witness and the
7 date upon which relevant materials were produced to the People. The same day, also pursuant
8 to the Court's July 14, 2023 order, the defense provided DDA Pribble a detailed supplemental
9 expert discovery disclosure. The defense also filed and served Mr. Martinez' trial brief and
10 motions in limine.

11 18. On July 27, 2023, the People filed a Further Motion to Compel Discovery claiming
12 that Mr. Martinez' expert disclosure did not comply with Penal Code section 1054.3 and
13 requesting exclusion of Mr. Martinez' expert witnesses at trial and sanctions against the defense.

14 19. The defense filed its Opposition on July 31, 2023 stating that the defense had
15 complied with all discovery obligations and that the Court's July 14, 2023 unilateral, *sua sponte*
16 discovery order violated Mr. Martinez' due process rights.

17 20. On August 1, 2023, the Court ruled on the People's Further Motion for Discovery.
18 Attached here as Exhibit C is a true and correct copy of the August 1, 2023 hearing transcript.

19 21. Mr. Martinez previously waived time to August 14 as 0 of 10 days for trial. The
20 10-day trailing period, which begins August 25, 2023, expires on September 3, 2023.

21 I declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct. Executed this Wednesday, August 23, 2023, at Los
23 Angeles, California.

24
25 
26 KATHERINE C. MCBROOM
27
28

EXHIBIT A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN BERNARDINO

PEOPLE OF THE STATE OF CALIFORNIA,)	
)	
Plaintiff,)	
)	CASE NO. FVI19000218
vs.)	
)	
PEDRO MARTINEZ,)	
)	
Defendant.)	
)	

REPORTER'S TRANSCRIPT OF TRIAL RECALL HEARING
BEFORE THE HONORABLE SHANNON L. FAHERTY, JUDGE
DEPARTMENT V2
FRIDAY, JULY 14, 2023

APPEARANCES:

FOR THE PEOPLE:	JASON ANDERSON District Attorney BY: DEENA PRIBBLE, Deputy DA 14455 Civic Drive Victorville, California 92392
-----------------	---

FOR THE DEFENDANT:	THE LAW OFFICES OF IAN WALLACH BY: IAN WALLACH, Attorney at Law 5777 West Century Boulevard, Suite 750 Los Angeles, California 90045
--------------------	---

**CERTIFIED
TRANSCRIPT**

Reported By:	Kelly Maureen Farrell Official Court Reporter, CSR 8081
--------------	--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INDEX
FRIDAY, JULY 14, 2023

WITNESSES

(None.)

EXHIBITS

(None.)

1 VICTORVILLE, CALIFORNIA; FRIDAY, JULY 14, 2023
2 MORNING SESSION
3 DEPARTMENT V2 HONORABLE SHANNON L. FAHERTY, JUDGE
4 APPEARANCES:
5 The Defendant, PEDRO MARTINEZ, with his
6 Counsel, IAN WALLACH, Attorney at Law;
7 DEENA PRIBBLE, Deputy District Attorney
8 of San Bernardino County, representing the
9 People of the State of California.
10 (Kelly Maureen Farrell, Official Reporter, CSR 8081)
11
12 THE COURT: Number 7 on the Recall Calendar.
13 On the record in the Pedro Martinez matter.
14 Appearances.
15 MS. PRIBBLE: Good morning, Your Honor.
16 Deena Pribble for the People.
17 MR. WALLACH: Good morning, Your Honor. Ian Wallach
18 for Mr. Martinez. He is present in the jury box to your right.
19 THE COURT: Hello, Mr. Martinez.
20 THE DEFENDANT: Hello. Good morning.
21 THE COURT: We have a number of things to deal with
22 on this case.
23 First, there is some pending motions that the Court
24 is prepared to go through right now.
25 The first is a motion filed by Defense, which is a
26 Renewed Motion -- Notice of Motion and Motion to Compel.
27 Mr. Wallach, you have not provided any authority as
28 to why I would review a motion that's already been heard.

1 MR. WALLACH: Not only that, Your Honor, we'd
2 withdrawn that motion at the last court hearing. I apologize.
3 They -- we got everything we needed --

4 THE COURT: Perfect.

5 MR. WALLACH: -- from the polygraph examiner.

6 THE COURT: All right. Then, let's make note,
7 specifically, that that has been withdrawn and Defense
8 indicates that they have received all necessary information.

9 Now, the Motion to Compel Discovery on behalf of the
10 People, has that been heard?

11 MS. PRIBBLE: No, that has not been heard.

12 THE COURT: Okay. So, the Court has read and
13 considered the People's motion, consisting of five pages, that
14 also has a declaration from Ms. Pribble, as well as exhibits.

15 The Court has some serious concerns about what has
16 and has not been turned over; and, therefore, we're going to
17 go through this.

18 MR. WALLACH: Thank you, Your Honor.

19 If -- I could update the Court as well, if you would
20 like.

21 THE COURT: Sure.

22 MR. WALLACH: Your Honor, we don't believe there is
23 any requirement under Stoll for a report.

24 We identified Mr. Romanoff back in April. We
25 provided everything we had on him in May. We've made him
26 available for interviews ever since.

27 However, at the Court's request and at the request of
28 D.A. Pribble, we did have him prepare -- since the last court

1 hearing, prepare a report. And that was turned over, I
2 believe, two days ago; if not, today.

3 THE COURT: All right. That's one of the issues.
4 So, that is Dr. Romanoff.

5 MR. WALLACH: Correct.

6 THE COURT: Then, Ms. Pribble, have you received
7 those reports, everything that you need from Dr. Romanoff?

8 MS. PRIBBLE: Not everything, Your Honor --

9 THE COURT: Tell me what you still need.

10 MS. PRIBBLE: -- that I'm requesting.

11 THE COURT: Okay. What else do you need?

12 MS. PRIBBLE: I've only received from Dr. Romanoff a
13 report indicating that he has interviewed the Defendant, the
14 Defendant's wife, that he has made some conclusions based off
15 of what he observed.

16 Counsel is requesting Dr. Romanoff to be introduced
17 in trial as a Stoll expert, which would include that Dr. Stoll
18 [sic] has conducted tests -- personality tests, mental health
19 tests -- for sexual deviancy. I have not received that.

20 I have only received, basically, a synopsis of his
21 interview.

22 THE COURT: Okay.

23 MR. WALLACH: Your Honor, again, she's received all
24 rough notes.

25 We disagree as to what the requirements of Stoll are.
26 We request that that go to the trial court.

27 THE COURT: No. It's going to happen right now.

28 MR. WALLACH: Okay. We --

1 THE COURT: You are ordered to provide all of the
2 test results --

3 MR. WALLACH: We already have, Your Honor.
4 Everything he has, they have.

5 THE COURT: Hang on.

6 If he's going to testify --

7 MR. WALLACH: Uh-huh.

8 THE COURT: -- outside of what she has --

9 MR. WALLACH: Correct.

10 THE COURT: You're saying he's not going to testify
11 as to any tests of any sort?

12 MR. WALLACH: No. There are no standardized tests
13 for child molestation. There is assessments that he can make,
14 which are reduced to rough notes. And those have been turned
15 over.

16 And that's clear under Stoll: There is no
17 standardized tests. They're asking -- we have given them
18 everything we have. We have given them everything we have.

19 THE COURT: Okay. Then, I'm going to make an
20 order -- and I need these minutes to be very specific -- that
21 you will be limited only to the information that has been
22 turned over to the People.

23 If you attempt to introduce any sort of tests, any
24 sort of those things that have not been -- and based on your
25 representation that they do not exist nor will he testify to
26 them -- then you will be limited to what's been turned over.

27 MR. WALLACH: Thank you, Your Honor.

28 THE COURT: Let's go now -- we're going to go through

1 all of these.

2 As to Nurse Malgrum, her -- have you received any
3 reports regarding Nurse Malgrum?

4 MS. PRIBBLE: I have not received any reports or
5 conclusions made by her.

6 THE COURT: Okay.

7 MR. WALLACH: The summary was already provided.
8 That's what she is going to testify to, is what is provided in
9 the summary.

10 She is going to go over the SART exams that were
11 provided by the People.

12 THE COURT: Okay. So, the summary of her testimony,
13 you're saying that that's been provided to Ms. Pribble?

14 MR. WALLACH: No. A summary of the contents of what
15 she will say.

16 If the Court would like a more detailed summary of
17 everything related to --

18 THE COURT: Relax. One thing at a time.

19 You have provided, you're saying, a summary of her
20 testimony. You're saying that has been presented to
21 Ms. Pribble.

22 MR. WALLACH: I will say general opinions. It was
23 one paragraph in general opinions. A summary of her testimony,
24 we've never done that before. I have no problem asking
25 Nurse Malgrum to provide that in great detail.

26 We have provided a paragraph which she is going to
27 say there were no findings of any harm that she could recognize
28 and that there are certain physical impossibilities with

1 regards to the allegations. That's it.

2 THE COURT: Okay. Did she ever interview the
3 Defendant?

4 MR. WALLACH: No. All she's ever done is reviewed
5 the SART report.

6 THE COURT: Okay. So, it sounds, Ms. Pribble, like
7 she is going to testify only to her review of the SART reports.
8 And you have her conclusion as to that?

9 MS. PRIBBLE: That is not correct.

10 THE COURT: Okay.

11 MS. PRIBBLE: Exhibit A, that the Court has
12 attached --

13 THE COURT: Yes.

14 MS. PRIBBLE: -- to my moving paperwork --

15 THE COURT: Yes.

16 MS. PRIBBLE: -- is the only information that I have
17 received from Counsel for over a period of months now.

18 Counsel has just represented on the record that she
19 has made a conclusion based off of the evidence she has
20 reviewed in our case.

21 I have no summary of what her exact conclusion is and
22 the exact contents of what she reviewed and how she reached her
23 conclusion.

24 MR. WALLACH: May I --

25 MS. PRIBBLE: I have only what the Court has under
26 Number 1 in the email dated April 4th, 2023.

27 THE COURT: Okay. Do you have her CV?

28 MS. PRIBBLE: I do.

1 THE COURT: Okay.

2 I am going to order that you provide to the People
3 her conclusions and the basis of her conclusions.

4 MR. WALLACH: Your Honor, may I -- all we've received
5 from the People is a 20-word paragraph --

6 THE COURT: We're not doing that.

7 MR. WALLACH: Okay.

8 THE COURT: Right now, I have a motion before me --

9 MR. WALLACH: That's fine. Understand.

10 THE COURT: -- of you're not complying with 1054.3.
11 So, then, we will go on to the next one.

12 As to Dr. Bradley McAuliff, what have you received,
13 Ms. Pribble?

14 MS. PRIBBLE: What is before the Court under Number 2
15 in the email dated April 4th, 2023.

16 And, again, this doctor is going to make conclusions
17 based off of his review of I don't know what evidence and is
18 intended to testify and put that conclusion before the jury.

19 THE COURT: Okay. Is Mr. McAuliff going to testify
20 to anything case-specific?

21 MR. WALLACH: His review of the materials that we
22 were provided, yes.

23 MS. PRIBBLE: The entire case file, yes.

24 THE COURT: Okay. So, he is going to testify
25 regarding review of the entire case file?

26 MR. WALLACH: He's not going to make findings of
27 fact, of course, but he's going to talk about --

28 MS. PRIBBLE: His review of children interviews, law

1 enforcement's interviews of children, forensic interviews of
2 children.

3 THE COURT: Okay. His conclusions, have those been
4 provided to the People?

5 MS. PRIBBLE: No.

6 MR. WALLACH: I would say they're in that paragraph,
7 Your Honor. If you want a more detailed explanation of the
8 conclusions he made --

9 THE COURT: This is what he's expecting -- this says
10 he is expected to testify to false memory and false memory
11 recall.

12 MR. WALLACH: Correct.

13 THE COURT: You're ordered to provide to Ms. Pribble
14 the conclusions, the specifics conclusions that Dr. McAuliff
15 will testify to.

16 MR. WALLACH: Your Honor, may I ask if these are
17 going to be mutual obligations, or should we bring the
18 identical motion? We've just gotten a 20-word summary of all
19 four experts.

20 THE COURT: All right. I'm going to need you to let
21 me make these --

22 MR. WALLACH: I apologize.

23 THE COURT: -- rulings.

24 We'll go on now to Robin Sachs.

25 Robin Sachs is a former sex crimes prosecutor, mental
26 health expert.

27 What do you anticipate her testimony to be?

28 MR. WALLACH: She's going -- Robin Sachs is also a

1 P.O.S.T trainer. She's going to talk about how these
2 interviews -- what the P.O.S.T. training encompasses, why
3 P.O.S.T. training encompasses what it does, and whether or not
4 these interviews comply with P.O.S.T. and law enforcement
5 officer training regarding forensic interviews.

6 This will extend to the forensic social worker
7 interviews as well, but everything is under the rubric of child
8 interviews in sexual molestation cases.

9 THE COURT: And, Ms. Pribble, have you received her
10 conclusions?

11 MS. PRIBBLE: No, I have not.

12 THE COURT: You are ordered to provide those
13 conclusions that she intends to testify on regarding the
14 reports that she reviewed in this case.

15 Now --

16 MS. PRIBBLE: And I would also ask, Your Honor, that
17 it's specific to including exactly what she did review to reach
18 her conclusions --

19 THE COURT: All right. We will say --

20 MS. PRIBBLE: -- because we have several victims.

21 THE COURT: -- including how she reached those
22 conclusions as to each victim.

23 The next is depositions, witness statements, and
24 un-redacted CFS records.

25 Ms. Pribble, tell me exactly about that and what
26 you're looking for.

27 MS. PRIBBLE: Your Honor, there have been -- since
28 the inception of the criminal prosecution in this case, there

1 have been several lawsuits filed by the victims in this case
2 against the Hesperia School District, where the Defendant
3 worked at the time of this crime.

4 Throughout those several civil lawsuits, while this
5 case was pending, Counsel has used the civil suit as their
6 investigatory tool --

7 MR. WALLACH: Objection, Your Honor.

8 THE COURT: Okay --

9 MS. PRIBBLE: -- as their investigatory tool --

10 THE COURT: -- she's just answering our question.

11 MS. PRIBBLE: Through depositions, they have
12 interviewed several people. I do not have those depositions.

13 The People need to have all information, because
14 Counsel has made it clear to the Court and myself on several
15 occasions that they have 55 witnesses they intend to call.

16 I do not have any idea of who these 55 people are;
17 who has been interviewed. I don't even have a list of names so
18 that the People can inquire into the affirmative evidence that
19 Counsel intends to put on at trial.

20 THE COURT: Okay. So, as to the Child and Family
21 Service [sic] records, at this point, I'm not going to make any
22 orders as to that. You also, from the Petitions for
23 Disclosure, you can file those yourself and you can get that
24 same information.

25 MS. PRIBBLE: Can I give the Court a little bit more
26 information on the CFS records?

27 THE COURT: Yes.

28 MS. PRIBBLE: So, on the CFS records, Counsel --

1 Defense Counsel did file an 827 petition. They did receive the
2 documents. I was notified by LA County that -- I was not
3 objecting to them receiving them.

4 THE COURT: Okay.

5 MS. PRIBBLE: It would be a mutual exchange.

6 THE COURT: Okay.

7 MS. PRIBBLE: When Counsel provided those to the
8 People, they provided them with their own redactions
9 encompassed within those CFS records.

10 MR. WALLACH: That's not true. That's a
11 misunderstanding.

12 THE COURT: One second. You will get heard.

13 MR. WALLACH: Sorry.

14 THE COURT: Okay.

15 And so you would like an un-redacted version?

16 MS. PRIBBLE: Correct.

17 THE COURT: Why were things --

18 MR. WALLACH: So would we.

19 Nothing was redacted from us. All the redactions
20 were made by the DCFS. We brought a separate motion regarding
21 that. And we're not able to get them; they are.

22 THE COURT: Okay. So, my order is that you provide
23 an exact copy of what you received from
24 Child and Family Services.

25 MR. WALLACH: That has already been provided, but
26 we'll put that in writing.

27 THE COURT: Perfect. I appreciate that.

28 MS. PRIBBLE: So, the second portion to that,

1 Your Honor -- and my apologies for stepping forward too
2 quickly -- the next issue that I'm requesting is a list of
3 witnesses, of the 55 witnesses that Counsel has repeatedly
4 stated on the record they intend to call, and any and all
5 interviews, depositions, or statements by these people.

6 THE COURT: Okay.

7 MR. WALLACH: May I speak to that?

8 THE COURT: Well, yes. Okay. Go ahead.

9 MR. WALLACH: As far as deposition transcripts, I
10 have some questionable -- we've turned them all over. I'm not
11 even sure we're even allowed to do that. I think they are
12 supposed to be purchased directly from the court reporter. But
13 there was a request for it. We've turned them over via
14 Dropbox.

15 THE COURT: I need a list of every witness that you
16 intend to call.

17 MR. WALLACH: Will that be a mutual obligation
18 because we're waiting for the same?

19 THE COURT: Stop.

20 MR. WALLACH: Sorry.

21 THE COURT: A list of everyone that you intend to
22 call, a date of birth for every single one of those persons --

23 MR. WALLACH: Of course.

24 THE COURT: Under 1054.3, any oral statements have to
25 be provided even if they have not been reduced to writing.

26 MR. WALLACH: Correct.

27 THE COURT: When will you provide that list of 55
28 people, dates of birth, and their statements?

1 MR. WALLACH: Your Honor, I have never said 55. I
2 want to clear that right off the bat.

3 THE COURT: Give me the number.

4 MR. WALLACH: We have -- I believe it's 22. I'm
5 going from memory.

6 THE COURT: When are you going to provide the 22
7 names, the 22 dates of birth, and the 22 statements?

8 MR. WALLACH: The documents are being drafted. We
9 hope to provide it today. But I will say, since we're coming
10 back, I assume, in ten days, we would ask for seven days to
11 turn it over.

12 THE COURT: Here's the problem: You need to turn
13 this stuff 30 days before trial, so it's time to get a time
14 waiver.

15 MR. WALLACH: No, Your Honor. First of all, it
16 looked like -- am I understanding, today was just going to be
17 their Motion to Compel?

18 THE COURT: That's what we're doing.

19 MR. WALLACH: No. Their Motion to Compel regarding
20 the other information. I can't get a time waiver right now.

21 THE COURT: Okay. You understand that your delay
22 here is going to allow Ms. Pribble extended periods of time to
23 review this?

24 MR. WALLACH: Your Honor --

25 THE COURT: You don't get to delay and not waive
26 time.

27 MR. WALLACH: Your Honor, just so you know, every one
28 of our witnesses comes from their discovery. Every one. We

1 don't have a single person we found on our own. We've just
2 taken the names from their reports, contacted the people, and
3 said, all right, they're going to show. And we took the
4 content from their reports as well.

5 THE COURT: Okay, so -- but any oral, when you had
6 contact, that needs to be disclosed.

7 MR. WALLACH: The only contact we have had was
8 serving them for court, and the only knowledge we have of their
9 subject matter is that which is contained in the material
10 provided by the People.

11 MS. PRIBBLE: That's not accurate.

12 THE COURT: You can get that list of 22, and you can
13 make that declaration under penalty of perjury to the Court.

14 MR. WALLACH: Okay.

15 THE COURT: We still need a list of those 22, as well
16 as their dates of birth, and what you believe that they will
17 say, and any conversations that they had. If what you believe
18 they will say is exactly what is in the police reports, then
19 you can put that, that that's what it is.

20 MR. WALLACH: Thank you, Your Honor.

21 THE COURT: Of course. If that's what it is, great.
22 But if there are any other conversations that have been had,
23 any further information, that has to be provided.

24 MR. WALLACH: Of course, Your Honor.

25 THE COURT: Okay.

26 MR. WALLACH: And we can get that to the People like
27 no later than Tuesday.

28 THE COURT: Okay. So, he's indicated that he will

1 have it to you -- put that in the minute order -- Counsel has
2 indicated he will have all this to the People by Tuesday,
3 July the 18th.

4 Ms. Pribble, I think that that covers everything in
5 your motion. Is there anything I'm missing?

6 MS. PRIBBLE: No, Your Honor.

7 THE COURT: So, I am going to also put in the minute
8 order that Counsel is reminded that, under 1054.7, that all of
9 these informations -- all of this information needs to have
10 been provided 30 days before trial.

11 There is a number of remedies that exist up to and
12 including the exclusion of evidence, but I am not making those
13 decisions at this point.

14 MR. WALLACH: Yes, Your Honor.

15 THE COURT: Okay.

16 Then there is a 1050(g)(2). Ms. Pribble, you're
17 currently engaged in a murder trial; is that correct?

18 MS. PRIBBLE: Yes.

19 THE COURT: I will continue this the allowable ten
20 court days to July the 28th for further recall. Defendant is
21 ordered transported on that date.

22 Thank you.

23 MS. PRIBBLE: Thank you, Your Honor.

24 MR. WALLACH: Thank you, Your Honor.

25 (Whereupon, the foregoing proceedings were
26 concluded for the day at 9:07 a.m.)

27 / / /

28 / / /

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

PEOPLE OF THE STATE OF CALIFORNIA,)	
)	
Plaintiff,)	
)	
vs.)	No. FVI19000218
)	
PEDRO MARTINEZ,)	REPORTER'S
)	CERTIFICATE
Defendant.)	

STATE OF CALIFORNIA)	
)	ss.
COUNTY OF SAN BERNARDINO)	

I, KELLY MAUREEN FARRELL, Certified Shorthand Reporter of the Superior Court of California, County of San Bernardino, do hereby certify that the foregoing, pages, to the best of my knowledge and belief, comprise a full, true, and correct computer-aided transcript of the proceedings taken in the matter of the above-entitled cause held July 14, 2023.

Dated this 20th day of July, 2023.

Kelly Farrell

Kelly Maureen Farrell
Official Court Reporter
CSR 8081

1	A	brought 13:20	copy 13:23
1 8:26	a.m. 17:26	C	correct 5:5 6:9 8:9 10:12 13:16 14:26 17:17
1050(g)(2) 17:16	accurate 16:11	Calendar 3:12	Counsel 3:6 5:16 8:17, 18 12:5,14,19,28 13:1,7 14:3 17:1,8
1054.3 9:10 14:24	affirmative 12:18	California 3:1,9	County 3:8 13:2
1054.7 17:8	ahead 14:8	call 12:15 14:4,16,22	court 3:12,19,21,23 4:2,4,6,12,15,19,21,28 5:3,6,9,11,22,26,27 6:1, 5,8,10,19,28 7:6,12,16, 18 8:2,6,10,11,13,15, 25,27 9:1,6,8,10,14,19, 24 10:3,9,13,20,23 11:9,12,19,21 12:8,10, 14,20,25,27 13:4,6,12, 14,17,22,27 14:6,8,12, 15,19,21,24,27 15:3,6, 12,18,21,25 16:5,8,12, 13,15,21,25,28 17:7,15, 19,20
14 3:1	allegations 8:1	case 3:22 8:20 9:23,25 11:14,28 12:1,5	Court's 4:27
18th 17:3	allowable 17:19	case-specific 9:20	covers 17:4
2	allowed 14:11	cases 11:8	crime 12:3
2 9:14	answering 12:10	CFS 11:24 12:26,28 13:9	crimes 10:25
20-word 9:5 10:18	anticipate 10:27	child 6:13 11:7 12:20 13:24	criminal 11:28
2023 3:1 8:26 9:15	apologies 14:1	children 9:28 10:1,2	CSR 3:10
22 15:4,6,7 16:12,15	apologize 4:2 10:22	civil 12:4,5	CV 8:27
28th 17:20	Appearances 3:4,14	clear 6:16 12:14 15:2	D
3	April 4:24 8:26 9:15	Compel 3:26 4:9 15:17, 19	D.A. 4:28
30 15:13 17:10	assessments 6:13	comply 11:4	date 14:22 17:21
4	assume 15:10	complying 9:10	dated 8:26 9:15
4th 8:26 9:15	attached 8:12	concerns 4:15	dates 14:28 15:7 16:16
5	attempt 6:23	concluded 17:26	day 17:26
55 12:15,16 14:3,27 15:1	Attorney 3:6,7	conclusion 8:8,19,21, 23 9:18	days 5:2 15:10,13 17:10,20
7	authority 3:27	conclusions 5:14 7:5 9:3,16 10:3,8,14 11:10, 13,18,22	DCFS 13:20
7 3:12	B	conducted 5:18	deal 3:21
8	back 4:24 15:10	considered 4:13	decisions 17:13
8081 3:10	based 5:14 6:24 8:19 9:17	consisting 4:13	declaration 4:14 16:13
827 13:1	basically 5:20	contact 16:6,7	Deena 3:7,16
9	basis 9:3	contacted 16:2	
9:07 17:26	bat 15:2	contained 16:9	
	behalf 4:9	content 16:4	
	Bernardino 3:8	contents 7:14 8:22	
	birth 14:22,28 15:7 16:16	continue 17:19	
	bit 12:25	conversations 16:17, 22	
	box 3:18		
	Bradley 9:12		
	bring 10:17		

Defendant 3:5,20 5:13
 8:3 12:2 17:20
Defendant's 5:14
Defense 3:25 4:7 13:1
delay 15:21,25
DEPARTMENT 3:3
deposition 14:9
depositions 11:23
 12:11,12 14:5
Deputy 3:7
detail 7:25
detailed 7:16 10:7
deviancy 5:19
directly 14:12
disagree 5:25
disclosed 16:6
Disclosure 12:23
discovery 4:9 15:28
District 3:7 12:2
doctor 9:16
documents 13:2 15:8
drafted 15:8
Dropbox 14:14

E

email 8:26 9:15
encompassed 13:9
encompasses 11:2,3
enforcement 11:4
enforcement's 10:1
engaged 17:17
entire 9:23,25
evidence 8:19 9:17
 12:18 17:12
exact 8:21,22 13:23
examiner 4:5
exams 7:10
exchange 13:5

exclusion 17:12
Exhibit 8:11
exhibits 4:14
exist 6:25 17:11
expected 10:10
expecting 10:9
expert 5:17 10:26
experts 10:19
explanation 10:7
extend 11:6
extended 15:22

F

fact 9:27
FAHERTY 3:3
false 10:10
Family 12:20 13:24
Farrell 3:10
file 9:23,25 12:23 13:1
filed 3:25 12:1
findings 7:27 9:26
fine 9:9
foregoing 17:25
forensic 10:1 11:5,6
forward 14:1
found 16:1
FRIDAY 3:1

G

general 7:22,23
give 12:25 15:3
Good 3:15,17,20
great 7:25 16:21

H

Hang 6:5

happen 5:27
harm 7:27
health 5:18 10:26
heard 3:28 4:10,11
 13:12
hearing 4:2 5:1
Hesperia 12:2
Honor 3:15,17 4:1,18,
 22 5:8,23 6:3,27 9:4
 10:7,16 11:16,27 12:7
 14:1 15:1,15,24,27
 16:20,24 17:6,14,23,24
HONORABLE 3:3
hope 15:9

I

Ian 3:6,17
idea 12:16
identical 10:18
identified 4:24
impossibilities 7:28
inception 11:28
include 5:17
including 11:17,21
 17:12
indicating 5:13
information 4:8 6:21
 8:16 12:13,24,26 15:20
 16:23 17:9
informations 17:9
inquire 12:18
intend 12:15 14:4,16,
 21
intended 9:18
intends 11:13 12:19
interview 5:21 8:2
interviewed 5:13
 12:12,17
interviews 4:26 9:28
 10:1 11:2,4,5,7,8 14:5

introduce 6:23
introduced 5:16
investigatory 12:6,9
issue 14:2
issues 5:3

J

JUDGE 3:3
July 3:1 17:3,20
jury 3:18 9:18

K

kelly 3:10
knowledge 16:8

L

LA 13:2
law 3:6 9:28 11:4
lawsuits 12:1,4
limited 6:21,26
list 12:17 14:2,15,21,27
 16:12,15
looked 15:16

M

made 4:25 5:14 7:5
 8:19 10:8 12:14 13:20
make 4:6 6:13,19 9:16,
 26 10:21 12:21 16:13
making 17:12
Malgrum 7:2,3,25
Martinez 3:5,13,18,19
material 16:9
materials 9:21
matter 3:13 16:9
Maureen 3:10
Mcauliff 9:12,19 10:14

memory 10:10 15:5	Official 3:10	prepared 3:24	record 3:13 8:18 14:4
mental 5:18 10:25	opinions 7:22,23	present 3:18	records 11:24 12:21, 26,28 13:9
minute 17:1,7	oral 14:24 16:5	presented 7:20	redacted 13:19
minutes 6:20	order 6:20 9:2 13:22 17:1,8	Pribble 3:7,15,16 4:11, 14,28 5:6,8,10,12 7:4, 13,21 8:6,9,11,14,16, 25,28 9:13,14,23,28 10:5,13 11:9,11,16,20, 25,27 12:9,11,25,28 13:5,7,16,28 15:22 16:11 17:4,6,16,18,23	redactions 13:8,19
missing 17:5	ordered 6:1 10:13 11:12 17:21		reduced 6:14 14:25
misunderstanding 13:11	orders 12:22		related 7:17
molestation 6:13 11:8			Relax 7:18
months 8:17	<hr/> P <hr/>		remedies 17:11
morning 3:2,15,17,20	P.o.s.t 11:1	problem 7:24 15:12	reminded 17:8
motion 3:25,26,28 4:2, 9,13 9:8 10:18 13:20 15:17,19 17:5	P.O.S.T. 11:2,3,4	proceedings 17:25	Renewed 3:26
motions 3:23	pages 4:13	prosecution 11:28	repeatedly 14:3
moving 8:14	paperwork 8:14	prosecutor 10:25	report 4:23 5:1,13 8:5
murder 17:17	paperwork 8:14	provide 6:1 7:25 9:2 10:13 11:12 13:22 14:27 15:6,9	reporter 3:10 14:12
mutual 10:17 13:5 14:17	paragraph 7:23,26 9:5 10:6	provided 3:27 4:25 7:7, 8,11,13,19,26 9:22 10:4 13:7,8,25 14:25 16:10, 23 17:10	reports 5:7 7:3,4 8:7 11:14 16:2,4,18
<hr/> N <hr/>	Pedro 3:5,13		representation 6:25
names 12:17 15:7 16:2	penalty 16:13	purchased 14:12	represented 8:18
needed 4:3	pending 3:23 12:5	put 9:18 12:19 13:26 16:19 17:1,7	representing 3:8
note 4:6	people 3:9,16 4:10 6:22 7:11 9:2,5 10:4 12:12, 13,16,18 13:8 14:5,28 16:2,10,26 17:2	<hr/> Q <hr/>	request 4:27 5:26 14:13
notes 5:24 6:14	People's 4:13		requesting 5:10,16 14:2
Notice 3:26	Perfect 4:4 13:27	question 12:10	requirement 4:23
notified 13:2	period 8:17	questionable 14:10	requirements 5:25
number 3:12,21 8:26 9:14 15:3 17:11	periods 15:22	quickly 14:2	results 6:2
Nurse 7:2,3,25	perjury 16:13	<hr/> R <hr/>	review 3:28 8:7 9:17, 21,25,28 11:17 15:23
<hr/> O <hr/>	person 16:1		reviewed 8:4,20,22 11:14
objecting 13:3	personality 5:18	reach 11:17	Robin 10:24,25,28
Objection 12:7	persons 14:22	reached 8:22 11:21	Romanoff 4:24 5:4,7, 12,16
obligation 14:17	petition 13:1	read 4:12	rough 5:24 6:14
obligations 10:17	Petitions 12:22	recall 3:12 10:11 17:20	rubric 11:7
observed 5:15	physical 7:28	receive 13:1	rulings 10:23
occasions 12:15	point 12:21 17:13	received 4:8 5:6,12,19, 20,23 7:2,4 8:17 9:4,12 11:9 13:23	<hr/> S <hr/>
officer 11:5	police 16:18	receiving 13:3	Sachs 10:24,25,28
	polygraph 4:5	recognize 7:27	
	portion 13:28		
	prepare 4:28 5:1		

San 3:8		
SART 7:10 8:5,7	<hr/> T <hr/>	<hr/> V <hr/>
School 12:2	talk 9:27 11:1	V2 3:3
separate 13:20	ten 15:10 17:19	version 13:15
Service 12:21	test 6:2	victim 11:22
Services 13:24	testify 6:6,10,25 7:8 8:7 9:18,19,24 10:10,15 11:13	victims 11:20 12:1
serving 16:8	testimony 7:12,20,23 10:27	VICTORVILLE 3:1
SESSION 3:2		<hr/> W <hr/>
sex 10:25	tests 5:18,19 6:11,12, 17,23	waiting 14:18
sexual 5:19 11:8	thing 7:18	waive 15:25
SHANNON 3:3	things 3:21 6:24 13:17	waiver 15:14,20
show 16:3	time 7:18 12:3 15:13, 20,22,26	Wallach 3:6,17,27 4:1, 5,18,22 5:5,23,28 6:3,7, 9,12,27 7:7,14,22 8:4, 24 9:4,7,9,21,26 10:6, 12,16,22,28 12:7 13:10, 13,18,25 14:7,9,17,20, 23,26 15:1,4,8,15,19, 24,27 16:7,14,20,24,26 17:14,24
sic 5:18 12:21	today 5:2 15:9,16	wife 5:14
single 14:22 16:1	tool 12:6,9	withdrawn 4:2,7
social 11:6	trainer 11:1	witnesses 12:15 14:3 15:28
sort 6:11,23,24	training 11:2,3,5	worked 12:3
sounds 8:6	transcripts 14:9	worker 11:6
speak 14:7	transported 17:21	writing 13:26 14:25
specific 6:20 11:17	trial 5:17,26 12:19 15:13 17:10,17	
specifically 4:7	true 13:10	
specifics 10:14	Tuesday 16:27 17:2	
standardized 6:12,17	turn 15:11,12	
State 3:9	turned 4:16 5:1 6:14, 22,26 14:10,13	
stated 14:4	<hr/> U <hr/>	
statements 11:23 14:5,24,28 15:7	Uh-huh 6:7	
stepping 14:1	un-redacted 11:24 13:15	
Stoll 4:23 5:17,25 6:16	understand 9:9 15:21	
Stop 14:19	understanding 15:16	
stuff 15:13	update 4:19	
subject 16:9		
suit 12:5		
summary 7:7,9,12,14, 16,19,23 8:21 10:18		
supposed 14:12		
synopsis 5:20		

EXHIBIT B



SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN BERNARDINO
Victorville District
14455 Civic Drive, Suite 200
Victorville, CA 92392
www.sb-court.org

MINUTE ORDER

Case Number: FV119000218

Date: 7/14/2023

Case Title: People of the State of California vs. Pedro Martinez

Department V2 - Victorville

Date: 7/14/2023

Time: 8:00 AM

Trial Recall Hearing

Charges: PC288.7(A)-F, PC288.7(A)-F, PC288.7(B)-F, PC288.7(B)-F, PC288.7(B)-F, PC288.7(B)-F, PC288(A)-F, PC288(A)-F, PC288(A)-F, PC288(A)-F, PC288.2(A)(2)-F

Judicial Officer: Shannon L. Faherty
Judicial Assistant: Kathlene Hoover
Court Reporter: Kelly Maureen Farrell
Bailiff: R Powell

Appearances

District Attorney Deena Pribble present
Retained Attorney Ian Wallach present
Defendant present in custody

Proceedings

Action came on for Trial Recall.
Defense withdraws renewed Motion to Compel.
People's Motion to Compel Discovery PC1054.3 heard.

Court orders evidence will be limited only to information provided to the People.

Defense represents nurse Judy Malmgren will testify as to SART reports.
Court orders Defense to provide Judy Malmgren's conclusions and basis of conclusions to the People.

Defense represents Dr. Bradley McAuliff will testify as to the review of children's memory.
Court orders defense to provide conclusions Dr. Bradley McAuliff will testify to the People.

Court orders defense to provide conclusions Robin Sax intends to testify to including how those conclusions were reached as to each victim.

Court orders defense to prove an exact copy of records received from Child Family Services.

Court orders defense to provide a list of witnesses with date of birth and report for each person.
Defense counsel represents there are 22 witnesses and information will be provided to the People by 7/18/2023.

People's PC1050(g)(2) motion is granted.

Hearings

Trial Recall Hearing set for 7/28/2023 at 8:00 AM in Department V2 - Victorville
Defendant ordered to appear.
TWPG: 7/14

Waivers

Time waiver previously given to: 7/14/2023
Court finds good cause to continue

Custody Status

Case Custody - In Custody

== Minute Order Complete ==

EXHIBIT C

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN BERNARDINO

PEOPLE OF THE STATE OF CALIFORNIA,)
)
Plaintiff,)
)
vs.) Case No. FVI19000218
)
PEDRO MARTINEZ,)
)
Defendant.)
_____)

REPORTER'S TRANSCRIPT OF ORAL PROCEEDINGS
HONORABLE SHANNON L. FAHERTY DEPARTMENT V2
Tuesday, August 1, 2023

APPEARANCES:

FOR THE PEOPLE: JASON ANDERSON
District Attorney
BY: DEENA PRIBBLE, Deputy
14455 Civic Drive Suite 300
Victorville, CA 92392

FOR THE DEFENDANT: IAN WALLACH and
KATHERINE MCBROOM
Attorneys At Law
8383 Wilshire Blvd. Suite 210
Beverly Hills, CA 90211



Reported By: Glenora A. Melendez, C.S.R.
Official Reporter, C-10414

Pages 1 through 15

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INDEX

SESSIONS

DAY	PAGE
Monday, August 1, 2023	
Morning Session	3

1 VICTORVILLE, CALIFORNIA; TUESDAY, AUGUST 1, 2023
2 DEPARTMENT V2; HONORABLE SHANNON L. FAHERTY, JUDGE
3 MORNING SESSION

4 APPEARANCES:

5 The Defendant with Counsel
6 IAN WALLACH and KATHERINE MCBROOM,
7 Attorney At Law;
8 DEENA PRIBBLE, Deputy District
9 Attorney for San Bernardino County
10 appearing on behalf of the People
11 of the State of California.
12 (Glenora A. Melendez, C.S.R.,
13 Official Reporter, C-10414.)

14 THE COURT: On the record on the Pedro Martinez
15 matter.

16 Appearances.

17 MS. PRIBBLE: Deena Pribble for the People.

18 MR. WALLACH: Good morning, your Honor.

19 Ian Wallach for Mr. Martinez. Katherin McBroom for
20 Mr. Martinez Mr. Martinez is present in the second row
21 second from the back.

22 THE COURT: Hello, sir.

23 THE DEFENDANT: Good morning.

24 THE COURT: Who is the person standing in front
25 of the bar?

26 MS. MCBROOM: Katherine McBroom.

27 THE COURT: Okay. So today we are here today
28 just to address these issues regarding discovery. I'm

1 just going to note, and I want the minute order to
2 reflect this, I'm dealing with this discovery issue as
3 courtesy to everyone. This is not my case. This case
4 came off the recall calendar. I am doing nothing except
5 this portion of it.

6 I am specifically going to note nothing that I
7 am going to say is going to be binding on the trial
8 court regarding admissibility or sanctions. I am just
9 dealing --

10 MR. WALLACH: Thank you, your Honor.

11 THE COURT: -- with what is in front of me and
12 what is not in front of me.

13 I have read and considered the following: The
14 People have filed a 5-page further motion to compel with
15 attached exhibits.

16 I've also read and considered the defense has a
17 17-page motion with exhibits.

18 This is really, at this point, boiling down to
19 three people, three witnesses. The first of the
20 witnesses is Nurse Malmgren. And that it is spelled
21 M-a-l-m-g-r-e-n.

22 THE COURT: Okay. So the motions indicate to me
23 what has been turned over.

24 Ms. Pribble, tell me very, very specifically,
25 what is it that you think that you haven't received
26 regarding this witness.

27 MS. PRIBBLE: As I stated at the last hearing,
28 the only thing that I originally received was the email

1 that the Court reviewed. At that time, the Court asked
2 of Mr. Wallach, Did Nurse Malmgren make any conclusions?
3 Counsel told the Court, Yes, she did.

4 So I requested essentially what her analysis and
5 her conclusions were. It was already clear from the
6 Court and the explanations given to the Court on that
7 day that this is case-specific expert testimony.

8 What I have received originally in the email was
9 that Nurse Malmgren is going to testify that there were
10 no findings on the SART exams of the victims.

11 THE COURT: Okay.

12 MS. PRIBBLE: That's fine. But, at the last
13 hearing, the defense counsel stated, Well, she reviewed
14 the case. It's now been disclosed to me that
15 Nurse Malmgren has reviewed the entire case, including
16 statements by the victims, the SART exams, essentially
17 all of the People's evidence.

18 In conjunction with that, Counsel stated at the
19 last hearing she's going to testify to certain physical
20 impossibilities with regard to the allegations. Now, I
21 still go back to, it is the People's position that I do
22 not have any sort of analysis as to how she reached this
23 conclusion. I only have that first email. I do have a
24 CV. And now I have there are certain physical
25 impossibilities, which was stated by Counsel to the
26 Court at the last hearing when the ruling was made.
27 To date, that is still all that I have.

28 THE COURT: Counsel, as to the physical

1 impossibility conclusions?

2 MR. WALLACH: Your Honor, I imagine that the
3 People are aware that by the statement made by the
4 complaining witness, one being that he was sitting on
5 the ground while Mr. Martinez was four feet away seated
6 in a chair, and from that position he inserted his penis
7 into Mr. Martinez's anus, into the victim's anus, which
8 is a physical impossibility.

9 THE COURT: Okay. So what I'm hearing is that
10 this testimony will be after review of everything that
11 Nurse Malmgren will testify that what the victims say
12 happened is a physical impossibility?

13 MR. WALLACH: Correct. In addition to her
14 explanations of what a SART report is.

15 THE COURT: Yes.

16 MR. WALLACH: And the contents of a SART exam.

17 THE COURT: Absolutely. And I think that the
18 conclusions are really at the crux of this discovery
19 issue.

20 So, with that representation that that will be
21 her conclusion, I'm going to find that you have complied
22 with your discovery obligations as to Nurse Malmgren.

23 Moving on then to --

24 MS. PRIBBLE: Your Honor, if you don't mind, I
25 don't mean to interrupt. Before you move on, I just
26 want to also have the Court inquire that that is the
27 entirety of Nurse Malmgren's testimony, what has been
28 provided to the People up to this point and what has

1 been stated on the record by Mr. Wallach.

2 MR. WALLACH: I believe so, your Honor.
3 However, at this time I am unaware of whether they're
4 calling an expert to explain the SART exams and what
5 Nurse Malmgren may respond to in response to whatever
6 evidence they produce.

7 THE COURT: Sure. So, obviously, other than
8 potential rebuttal evidence, it's your position that
9 everything that's been provided, along with the
10 representation that you just made in court, that that is
11 the entirety of her testimony.

12 MR. WALLACH: Correct, your Honor.

13 MS. MCBROOM: Sorry to give you an in-stereo
14 response, but of course things unfold in the People's
15 case in chief that sometimes aren't anticipated.

16 THE COURT: Of course. And that is different
17 than --

18 MS. MCBROOM: Correct.

19 THE COURT: That is not the situation that I'm
20 asking. I'm asking for your offer of proof as to the
21 testimony of that nurse.

22 Okay. Moving on to Dr. Bradley McAuliff,
23 M-c-A-u-l-i-f-f, what is it specifically, Ms. Pribble,
24 that you feel has not been provided as to this witness?

25 MS. PRIBBLE: Your Honor, the inquiry has always
26 been the same from the People, dating back to the
27 April 2023 email that was provided to the Court in my
28 original moving papers. Dr. McAuliff, I've been told,

1 is going to testify as to false memory and certain
2 psychological steps that can be taken to essentially
3 transfer memory or trauma into a child's.

4 Now, again, we go back to the last hearing where
5 Counsel stated that Dr. McAuliff did have a specific
6 conclusion, which would be a specific conclusion as to
7 each child in this case that consists of two victims, so
8 two victims at this time. I do not have information of
9 a case-specific conclusion.

10 I do know that since the last court date counsel
11 has provided me with the same information that I have
12 provided the Court in my moving paperwork that
13 Dr. McAuliff has reviewed the case in its entirety,
14 including these witnesses' statements, including witness
15 statements by parents, et cetera.

16 Again, I have no analysis as to what
17 Dr. McAuliff is going to say regarding each child in
18 regard to transferred memory. It is case specific
19 expert testimony because he has reached some sort of
20 conclusion, but I'm still only given generalities as if
21 it was a Child Sexual Accommodation Syndrome expert,
22 which it is not, because Counsel has informed the Court
23 and myself that this doctor has reviewed all of the
24 evidence in the case.

25 So, again, months later I'm coming back saying,
26 Well, what was his analysis and what is the specific
27 conclusion?

28 THE COURT: Okay.

1 Is Dr. McAuliff, is he -- when I review what has
2 been exchanged, it sounds to me like, and please correct
3 me, that he is generally going to testify the same way
4 that potentially an eyewitness expert would testify, or
5 something as to this is what happens in these types of
6 cases. I'm an expert on disclosure, memory issues.
7 Beyond that, though, does he intend to testify to
8 case-specific conclusions?

9 MR. WALLACH: First initial statement, I want to
10 make sure that the Court is not going to limit the
11 doctor to statements made at the last hearing. It is
12 our position that we were not on notice that that was
13 going to be discussed at the last hearing.

14 THE COURT: No. Here I'm just dealing with the
15 very specific discovery issues. Nothing that happens
16 here is going to be limiting, and I'm not binding any
17 trial court.

18 MR. WALLACH: Thank you, your Honor.

19 THE COURT: You're welcome.

20 So as to Dr. McAuliff, is this general expert
21 testimony or will there be a case-specific child
22 conclusion?

23 MS. MCBROOM: Right. Of course he can kind of
24 lay the groundwork about what's an appropriate standard.

25 THE COURT: Of course.

26 MS. MCBROOM: Regarding forensic child
27 interviews.

28 THE COURT: Sure.

1 MS. MCBROOM: Okay. And he will say things like
2 leading and repetitive questions lead to false
3 disclosures.

4 THE COURT: Okay.

5 MS. MCBROOM: Particularly after a child has
6 denied repeatedly.

7 THE COURT: Okay.

8 MS. MCBROOM: He can also comment on, we
9 believe, the interviews by law enforcement and social
10 workers in these cases were leading and repetitive.

11 Now, it's not just one question or one scenario
12 that's the problem. When you look at these interviews
13 as a whole, they're very, very suggestive. They're
14 very, very repetitive. There is clearly a goal in mind
15 to get a disclosure. And he will say that under those
16 circumstances that decreases the reliability of the
17 disclosure.

18 He can't testify as to whether or not the
19 children had a false memory or the children were coerced
20 into statements, but he can testify as to how such
21 procedures and failure to conduct a standard forensic
22 exam can lead to unreliable disclosures.

23 MR. WALLACH: Let me add one thing to that, your
24 Honor.

25 THE COURT: Sure.

26 MR. WALLACH: He can also discuss, there has
27 been evidence produced to the People, evidence that was
28 always available to the People regarding one

1 individual's obsession with certain sexual practices
2 that were exposed to one of the victims.

3 THE COURT: Okay.

4 MR. WALLACH: And he can discuss the impact that
5 that can have on that victim. And that was disclosed in
6 our papers.

7 MS. PRIBBLE: I'm just going to interrupt a
8 moment. I'm not sure which counsel is arguing this
9 motion, but it should be one. Counsel needs to choose
10 who is making the representations to the Court and
11 arguing against the People's motion.

12 THE COURT: Okay. Hang on.

13 What you have indicated to me, Ms. McBroom, and
14 I just want to make sure that this is clear, the
15 conclusion of Dr. McAuliff will be that the interviews
16 in this case were, in fact, coercive.

17 MS. MCBROOM: Yes.

18 THE COURT: Then what is it about that
19 conclusion -- now that you have that conclusion,
20 Ms. Pribble, what more are you asking?

21 MS. PRIBBLE: I want to know his analysis, how
22 he reached that conclusion, because, again, we have
23 several case-specific experts, including McAuliff, that
24 are being presented by defense counsel who has reached
25 this conclusion. And we're talking about several
26 interviews of these children, several CFS interviews,
27 several Crimes Against Children interviews at the
28 Children's Assessment Center, and law enforcement's

1 original interviews.

2 So which piece or which interview, specifically,
3 is he referring to that were coercive? All of them?
4 One of them? A portion of one? That's the information
5 as to why the People originally requested what analysis
6 was made. Were reports written? What were the notes?
7 And how did he reach this conclusion? And we still, to
8 date, don't have that. We have what the Court has in
9 front -- what your Honor has in front of you and now
10 what Counsel has put on the record.

11 THE COURT: Okay. So we now have a conclusion
12 on the record.

13 Counsel, were all of the interviews provided to
14 Dr. McAuliff?

15 MS. MCBROOM: Yes. So there are -- each child
16 was interviewed by a law enforcement officer.

17 THE COURT: Correct.

18 MS. MCBROOM: We believe those are coercive
19 interviews.

20 THE COURT: Okay.

21 MS. MCBROOM: Well, and one child was
22 interviewed by his stepmother. That is not recorded.

23 THE COURT: Okay. Just tell me which
24 interviews.

25 MS. MCBROOM: That one, and there were two
26 social worker interviews.

27 THE COURT: So those are the four interviews
28 that you believe that Mr. McAuliff will testify were

1 coercive -- or Dr. McAuliff. I'm sorry.

2 MS. MCBROOM: There's also two officer
3 identifications that are recorded and suggestive.

4 THE COURT: Okay. So six instances.

5 MS. MCBROOM: There you go.

6 THE COURT: I want to be crystal clear here.
7 Six instances where Dr. McAuliff will testify that they
8 were coercive. Okay.

9 MS. MCBROOM: Correct.

10 THE COURT: I'm going to find compliance with
11 the order that the Court made regarding discovery as to
12 Dr. McAuliff.

13 Now, as to Robin Sax, when I reviewed the
14 information provided by the People as to what has been
15 disclosed regarding Robin Sax, I think that there is
16 compliance with the orders. But, Ms. Pribble, is there
17 something else that you believe has not?

18 MS. PRIBBLE: It essentially is the same as with
19 Dr. McAuliff, your Honor. Robin Sax has reviewed the
20 case in its entirety, interviews by the witness. She
21 intended on testifying regarding the POST interviews,
22 that essentially they were improper in some manner.
23 And, again, just like what Counsel illustrated to the
24 Court, I was never made aware that it was each of these
25 interviews by the mother, law enforcement, CSC, CFS.

26 So the question is still present, which
27 interviews were done improperly? Where? What was this
28 doctor's analysis that led her to the conclusion that I

1 have just received in the past two weeks?

2 THE COURT: The argument that you have just
3 made, is that going back to Dr. McAuliff?

4 MS. PRIBBLE: No. It's the same argument for
5 Dr. Sax.

6 THE COURT: I didn't realize Sax was a doctor.

7 MR. WALLACH: She's not. She's a MSW and POST
8 trainer.

9 MS. PRIBBLE: My apologies, your Honor.

10 THE COURT: No. I just got confused. Is there
11 any specific -- as far as Robin Sax, are there specific
12 interviews that Robin Sax will testify were outside of
13 normal procedures or training?

14 MS. MCBROOM: The same interviews.

15 THE COURT: The same six interviews?

16 MS. MCBROOM: The same six. And the difference
17 is she is certified and a trainer in POST and will say
18 that these interviews are not POST compliant, and what
19 can happen when someone does a nonPOST-compliant
20 interview, which is an unreliable disclosure.

21 THE COURT: So she will testify that these six
22 interviews led to unreliable disclosures. Is that a
23 good conclusion?

24 MS. MCBROOM: Correct.

25 THE COURT: Based on that, I am also going to
26 find that you are in compliance with your discovery
27 order. Those are the only three that were brought to
28 the attention of the Court.

1 It looks like this is already set for recall on
2 August 11th. I just -- I have to say to all counsel
3 here, we have to -- I need everyone to stay focused.
4 This is -- I understand that there is frustration
5 between attorneys, but this is the defendant's life and
6 this is two little boys who are alleged to have been
7 raped repeatedly by the defendant. That's what this
8 case is about. And I need everyone to just stay
9 focused.

10 I know that everyone is frustrated with each
11 other. Please, please, that is not what this case is
12 about. I need you all to please stay focused for the
13 sake of your client and for the sake of those victims.
14 It's time to put everyone's card on the table, go to
15 trial, let a jury decide, okay?

16 Anything else? Otherwise, I'll see you back on
17 the 11th for recall.

18 MR. WALLACH: Thank you, your Honor.

19 MS. PRIBBLE: I do have one more matter, your
20 Honor.

21 In the moving paperwork -- well, the opposition
22 that we received yesterday from counsel, there were
23 references regarding the People, myself, making
24 misrepresentations to this Court at the last hearing.
25 It is my position, clearly based off of the transcript
26 that was provided to the Court, that no
27 misrepresentation were made by the People. And that the
28 last hearing by the court was an inquiry of defense

1 counsel. Defense counsel responded to the inquiries by
2 the Court. And the People provided the Court with the
3 original email showing what the People had received to
4 that point.

5 So I want to make a record and request of the
6 Court as to whether or not this Court is making a
7 finding that I made any misrepresentations to the Court?

8 THE COURT: I'm make no such finding.

9 MR. WALLACH: The transcripts are sufficient.

10 THE COURT: The transcripts exist for a reason.
11 I am making absolutely no findings about that. My
12 findings are limited to these discovery issues.

13 MR. WALLACH: Thank you, your Honor.

14 THE COURT: Thank you, everyone.

15 MS. MCBROOM: Thank you.

16 (Proceedings were adjourned for the day.)
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

PEOPLE OF THE STATE OF CALIFORNIA,))	
)	
Plaintiff,))	
)	
vs.))	FVI19000218
)	
PEDRO MARTINEZ,))	
)	
Defendant.))	

REPORTER'S CERTIFICATE

I, Glenora A. Melendez, C.S.R., Official Reporter of the above-entitled court, do hereby certify:

That I am a Certified Shorthand Reporter of the State of California, duly licensed to practice; that I did report in Stenotype oral proceedings had upon hearing of the aforementioned cause at the time and place hereinbefore set forth; that the foregoing pages numbered 1 through 16, inclusive, constitute to the best of my ability a true and correct computer-aided transcription from my said shorthand notes so taken on August 1, 2023.

Dated at Victorville, California this 4th day of August, 2023.


 Glenora A. Melendez, C.S.R.
 Official Reporter, C-10414

<hr/> 1 <hr/> 1 3:1 11th 15:2,17 17-page 4:17	attorneys 15:5 August 3:1 15:2 aware 6:3 13:24	child's 8:3 children 10:19 11:26, 27 Children's 11:28	10:4,7,25 11:3,10,12,18 12:8,11,17,20,23,27 13:4,6,10,11,24 14:2,6, 10,15,21,25,28 15:24, 26,28 16:2,6,7,8,10,14
<hr/> 2 <hr/> 2023 3:1 7:27	<hr/> back 3:21 5:21 7:26 8:4,25 14:3 15:16	choose 11:9	courtesy 4:3
<hr/> 5 <hr/> 5-page 4:14	bar 3:25 based 14:25 15:25	circumstances 10:16 clear 5:5 11:14 13:6	Crimes 11:27 crux 6:18 crystal 13:6
<hr/> A <hr/> absolutely 6:17 16:11 Accommodation 8:21 add 10:23 addition 6:13 address 3:28 adjourned 16:16 admissibility 4:8 allegations 5:20 alleged 15:6 analysis 5:4,22 8:16,26 11:21 12:5 13:28 anticipated 7:15 anus 6:7 apologies 14:9 Appearances 3:4,16 appearing 3:10 April 7:27 arguing 11:8,11 argument 14:2,4 Assessment 11:28 attached 4:15 attention 14:28 Attorney 3:7,9	behalf 3:10 Bernardino 3:9 binding 4:7 9:16 boiling 4:18 boys 15:6 Bradley 7:22 brought 14:27	coerced 10:19 coercive 11:16 12:3,18 13:1,8 comment 10:8 compel 4:14 complaining 6:4 compliance 13:10,16 14:26 compliant 14:18 complied 6:21 conclusion 5:23 6:21 8:6,9,20,27 9:22 11:15, 19,22,25 12:7,11 13:28 14:23 conclusions 5:2,5 6:1, 18 9:8 conduct 10:21 confused 14:10 conjunction 5:18 considered 4:13,16 consists 8:7 contents 6:16 correct 6:13 7:12,18 9:2 12:17 13:9 14:24 counsel 3:5 5:3,13,18, 25,28 8:5,10,22 11:8,9, 24 12:10,13 13:23 15:2, 22 16:1 County 3:9 court 3:14,22,24,27 4:8,11,22 5:1,3,6,11,26, 28 6:9,15,17,26 7:7,10, 16,19,27 8:10,12,22,28 9:10,14,17,19,25,28	CSC 13:25 CV 5:24
	<hr/> C <hr/> C-10414 3:13 C.S.R. 3:12 calendar 4:4 California 3:1,11 calling 7:4 card 15:14 case 4:3 5:14,15 7:15 8:7,13,18,24 11:16 13:20 15:8,11 case-specific 5:7 8:9 9:8,21 11:23 cases 9:6 10:10 Center 11:28 certified 14:17 cetera 8:15 CFS 11:26 13:25 chair 6:6 chief 7:15 child 8:7,17,21 9:21,26 10:5 12:15,21	<hr/> D <hr/> date 5:27 8:10 12:8 dating 7:26 day 5:7 16:16 dealing 4:2,9 9:14 decide 15:15 decreases 10:16 Deena 3:8,17 defendant 3:5,23 15:7 defendant's 15:5 defense 4:16 5:13 11:24 15:28 16:1 denied 10:6 DEPARTMENT 3:2 Deputy 3:8 difference 14:16 disclosed 5:14 11:5 13:15 disclosure 9:6 10:15, 17 14:20 disclosures 10:3,22 14:22 discovery 3:28 4:2 6:18,22 9:15 13:11 14:26 16:12 discuss 10:26 11:4 discussed 9:13 District 3:8	

doctor 8:23 9:11 14:6	find 6:21 13:10 14:26	imagine 6:2	
doctor's 13:28	finding 16:7,8	impact 11:4	<hr/> K <hr/>
<hr/> E <hr/>	findings 5:10 16:11,12	impossibilities 5:20, 25	Katherin 3:19
email 4:28 5:8,23 7:27 16:3	fine 5:12	impossibility 6:1,8,12	Katherine 3:6,26
enforcement 10:9 12:16 13:25	focused 15:3,9,12	improper 13:22	kind 9:23
enforcement's 11:28	forensic 9:26 10:21	improperly 13:27	<hr/> L <hr/>
entire 5:15	front 3:24 4:11,12 12:9	in-stereo 7:13	law 3:7 10:9 11:28 12:16 13:25
entirety 6:27 7:11 8:13 13:20	frustrated 15:10	including 5:15 8:14 11:23	lay 9:24
essentially 5:4,16 8:2 13:18,22	frustration 15:4	individual's 11:1	lead 10:2,22
everyone's 15:14	<hr/> G <hr/>	information 8:8,11 12:4 13:14	leading 10:2,10
evidence 5:17 7:6,8 8:24 10:27	general 9:20	informed 8:22	led 13:28 14:22
exam 6:16 10:22	generalities 8:20	initial 9:9	life 15:5
exams 5:10,16 7:4	generally 9:3	inquire 6:26	limit 9:10
exchanged 9:2	give 7:13	inquiries 16:1	limited 16:12
exhibits 4:15,17	glenora 3:12	inquiry 7:25 15:28	limiting 9:16
exist 16:10	goal 10:14	inserted 6:6	<hr/> M <hr/>
expert 5:7 7:4 8:19,21 9:4,6,20	good 3:18,23 14:23	instances 13:4,7	M-A-L-M-G-R-E-N 4:21
experts 11:23	ground 6:5	intend 9:7	M-C-A-U-L-I-F-F 7:23
explain 7:4	groundwork 9:24	intended 13:21	made 5:26 6:3 7:10 9:11 12:6 13:11,24 14:3 15:27 16:7
explanations 5:6 6:14	<hr/> H <hr/>	interrupt 6:25 11:7	make 5:2 9:10 11:14 16:5,8
exposed 11:2	Hang 11:12	interview 12:2 14:20	making 11:10 15:23 16:6,11
eyewitness 9:4	happen 14:19	interviewed 12:16,22	Malmgren 4:20 5:2,9, 15 6:11,22 7:5
<hr/> F <hr/>	happened 6:12	interviews 9:27 10:9, 12 11:15,26,27 12:1,13, 19,24,26,27 13:20,21, 25,27 14:12,14,15,18, 22	Malmgren's 6:27
fact 11:16	Honor 3:18 4:10 6:2,24 7:2,12,25 9:18 10:24 12:9 13:19 14:9 15:18, 20 16:13	issue 4:2 6:19	manner 13:22
FAHERTY 3:2	HONORABLE 3:2	issues 3:28 9:6,15 16:12	Martinez 3:14,19,20 6:5
failure 10:21	<hr/> I <hr/>	<hr/> J <hr/>	Martinez's 6:7
false 8:1 10:2,19	Ian 3:6,19	JUDGE 3:2	matter 3:15 15:19
feel 7:24	identifications 13:3	jury 15:15	Mcauliff 7:22,28 8:5, 13,17 9:1,20 11:15,23 12:14,28 13:1,7,12,19
feet 6:5	illustrated 13:23		
filed 4:14			

14:3	officer 12:16 13:2	procedures 10:21 14:13	report 6:14
Mcbroom 3:6,19,26 7:13,18 9:23,26 10:1,5, 8 11:13,17 12:15,18,21, 25 13:2,5,9 14:14,16,24 16:15	Official 3:13	proceedings 16:16	Reporter 3:13
Melendez 3:12	opposition 15:21	produce 7:6	reports 12:6
memory 8:1,3,18 9:6 10:19	order 4:1 13:11 14:27	produced 10:27	representation 6:20 7:10
mind 6:24 10:14	orders 13:16	proof 7:20	representations 11:10
minute 4:1	original 7:28 12:1 16:3	provided 6:28 7:9,24, 27 8:11,12 12:13 13:14 15:26 16:2	request 16:5
misrepresentation 15:27	originally 4:28 5:8 12:5	psychological 8:2	requested 5:4 12:5
misrepresentations 15:24 16:7	<hr/> P <hr/>	put 12:10 15:14	respond 7:5
moment 11:8	papers 7:28 11:6	<hr/> Q <hr/>	responded 16:1
months 8:25	paperwork 8:12 15:21	question 10:11 13:26	response 7:5,14
morning 3:3,18,23	parents 8:15	questions 10:2	review 6:10 9:1
mother 13:25	past 14:1	<hr/> R <hr/>	reviewed 5:1,13,15 8:13,23 13:13,19
motion 4:14,17 11:9,11	Pedro 3:14	raped 15:7	Robin 13:13,15,19 14:11,12
motions 4:22	penis 6:6	reach 12:7	row 3:20
move 6:25	people 3:10,17 4:14,19 6:3,28 7:26 10:27,28 12:5 13:14 15:23,27 16:2,3	reached 5:22 8:19 11:22,24	ruling 5:26
moving 6:23 7:22,28 8:12 15:21	People's 5:17,21 7:14 11:11	read 4:13,16	<hr/> S <hr/>
MSW 14:7	person 3:24	realize 14:6	sake 15:13
<hr/> N <hr/>	physical 5:19,24,28 6:8,12	reason 16:10	San 3:9
nonpost-compliant 14:19	piece 12:2	rebuttal 7:8	sanctions 4:8
normal 14:13	point 4:18 6:28 16:4	recall 4:4 15:1,17	SART 5:10,16 6:14,16 7:4
note 4:1,6	portion 4:5 12:4	received 4:25,28 5:8 14:1 15:22 16:3	Sax 13:13,15,19 14:5,6, 11,12
notes 12:6	position 5:21 6:6 7:8 9:12 15:25	record 3:14 7:1 12:10, 12 16:5	scenario 10:11
notice 9:12	POST 13:21 14:7,17,18	recorded 12:22 13:3	seated 6:5
nurse 4:20 5:2,9,15 6:11,22,27 7:5,21	potential 7:8	references 15:23	SESSION 3:3
<hr/> O <hr/>	potentially 9:4	referring 12:3	set 15:1
obligations 6:22	practices 11:1	reflect 4:2	sexual 8:21 11:1
obsession 11:1	present 3:20 13:26	regard 5:20 8:18	SHANNON 3:2
offer 7:20	presented 11:24	reliability 10:16	showing 16:3
	Pribble 3:8,17 4:24,27 5:12 6:24 7:23,25 11:7, 20,21 13:16,18 14:4,9 15:19	repeatedly 10:6 15:7	sir 3:22
	problem 10:12	repetitive 10:2,10,14	sitting 6:4
			situation 7:19
			social 10:9 12:26

sort 5:22 8:19	transcripts 16:9,10
sounds 9:2	transfer 8:3
specific 8:5,6,18,26 9:15 14:11	transferred 8:18
specifically 4:6,24 7:23 12:2	trauma 8:3
spelled 4:20	trial 4:7 9:17 15:15
standard 9:24 10:21	TUESDAY 3:1
standing 3:24	turned 4:23
State 3:11	types 9:5
stated 4:27 5:13,18,25 7:1 8:5	<hr/> U <hr/>
statement 6:3 9:9	unaware 7:3
statements 5:16 8:14, 15 9:11 10:20	understand 15:4
stay 15:3,8,12	unfold 7:14
stepmother 12:22	unreliable 10:22 14:20, 22
steps 8:2	<hr/> V <hr/>
sufficient 16:9	V2 3:2
suggestive 10:13 13:3	victim 11:5
Syndrome 8:21	victim's 6:7
<hr/> T <hr/>	victims 5:10,16 6:11 8:7,8 11:2 15:13
table 15:14	VICTORVILLE 3:1
talking 11:25	<hr/> W <hr/>
testify 5:9,19 6:11 8:1 9:3,4,7 10:18,20 12:28 13:7 14:12,21	Wallach 3:6,18,19 4:10 5:2 6:2,13,16 7:1,2,12 9:9,18 10:23,26 11:4 14:7 15:18 16:9,13
testifying 13:21	weeks 14:1
testimony 5:7 6:10,27 7:11,21 8:19 9:21	witnesses 4:19,20
thing 4:28 10:23	witnesses' 8:14
things 7:14 10:1	worker 12:26
time 5:1 7:3 8:8 15:14	workers 10:10
today 3:27	written 12:6
told 5:3 7:28	<hr/> Y <hr/>
trainer 14:8,17	yesterday 15:22
training 14:13	
transcript 15:25	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 eighteen years and not a party to the within action. My business address is 8383 Wilshire Blvd. Suite 210, Beverly Hills, CA 90211.

On August 23, 2023, I served the following document(s) described as: **DEFENDANT PEDRO MARTINEZ' NOTICE OF MOTION AND MOTION TO DISMISS WITH PREJUDICE** in this action by placing true copies thereof enclosed in sealed envelopes and/or packages addressed as follows:

Deena M. Pribble
San Bernardino County District Attorney
E-mail: DPribble@sbcda.org

BY MAIL: I deposited such envelope in the mail at 8383 Wilshire Blvd. Suite 210, Beverly Hills, CA 90211. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

BY FACSIMILE: I served said document(s) to be transmitted by facsimile pursuant to California Rules of Court. The telephone number of the sending facsimile machine was (310) 893-3191. The name(s) and facsimile machine telephone number(s) of the person(s) served are set forth in the service list.

BY HAND DELIVERY: I caused such envelope(s) to be delivered by hand to the above addressee(s).

BY ELECTRONIC MAIL: On the above-mentioned date, from Los Angeles, California, I caused each such document to be transmitted electronically to the party(ies) at the e-mail address(es) indicated above. To the best of my knowledge, the transmission was reported as complete, and no error was reported that the electronic transmission was not completed.

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

Executed on August 23, 2023 at Los Angeles, California.



TRACY VENA