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15 Attorneys for Defendant
16 PEDRO MARTINEZ

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **FOR THE COUNTY OF SAN BERNARDINO**

19 THE PEOPLE OF THE STATE OF
20 CALIFORNIA,

21 Plaintiff,

22 v.

23 PEDRO MARTINEZ,

24 Defendant.

Case: FVI19000218

**DEFENDANT PEDRO MARTINEZ’
RENEWED NOTICE OF MOTION AND
MOTION TO COMPEL**

Date: June 9, 2023
Time: 8:30 a.m.
Dept.: V3

*[Declaration of Ian Wallach in Support of
Motion filed concurrently herewith]*

1 **TO THE HONORABLE JUDGE OF THE ABOVE-ENTITLED COURT AND THE**
2 **DISTRICT ATTORNEY OF SAN BERNARDINO COUNTY AND/OR HIS**
3 **REPRESENTATIVES:**

4 **PLEASE TAKE NOTICE** that on June 9, 2023 at 8:30 a.m., in Department V3 of the
5 above-entitled Court, or soon thereafter as the matter may be heard, Defendant Pedro Martinez
6 (“Mr. Martinez”) will again move this Court for an order to compel the following:

- 7 1. The actual printouts and data (“polygraph tracing and hand scoring [notes]” as referred
8 to) relied on by Polygrapher Debbie Malm on January 23, 2019 following a polygraph
9 examination of Defendant Pedro Martinez taken in connection with File No. 191900568
10 for which a report interpreting such data was previously provided to the Defense.

11 **The Government previously, on May 22, 2023, upon the Court’s request, agreed to**
12 **take efforts to locate the items below and provide them. The Court acknowledged their**
13 **relevancy, the Government agreed to search for the documents, and the Court ordered**
14 **the undersigned counsel, Ian Wallach, to submit the list of where the documents could be**
15 **located. The Court took the hearing off calendar.**

16 **As ordered, on May 24, 2023, Mr. Wallach sent the following correspondence to**
17 **Deputy District Attorney Deena Pribble (Affidavit of Ian Wallach, Esq. (“Wallach Aff.)**
18 **at ¶2):**

19 Ms. Pribble,

20 Per the Court’s instruction, this letter serves to identify at least four other areas
21 where the sought polygraph tracings and scoring notes can be located, in
22 addition to locating them from the Sheriff’s office database.

23 The items sought should be located:

- 24 1. Within the hard drive of the polygraph machine itself, or within any memory
25 system associated with the polygraph machine itself;
26 2. In any files maintained by Polygrapher Debbie Malm;
27 3. In any files maintained by Supervising Polygraph Examiner Michelle Coley;
28 and (but not limited to)
4. Attached to any “sent” emails that contained the data, including, but not limited
to, emails that were sent to the Sheriff’s Department for the purpose of
preservation for this case.

1 Please let us know when we can be updated as to the efforts to locate and,
2 hopefully, production of the polygraph tracings and the hand scoring notes.

3 Sincerely,

4 Ian Wallach

5
6 **No response arrived. Subsequently, five days later, on May 29, 2023, Mr. Wallach sent a**
7 **follow-up email seeking the same documents and adding one other location to be**
8 **searched (Wallach Aff., ¶ 3):**

9 Counsel,

10 I am in receipt of your correspondence below of May 28, 2023 containing
11 identifying information regarding Veronica Thomas, Ph.D.; Blake D.
12 Carmichael, Ph.D; Lauren Maltby, Ph.D., and Jody Ward, Ph.D.

13 You state that these experts will testify to:

14 Child Sexual Abuse Accommodation Syndrome (CSAAS); specifically that
15 CSAAS describes and explains common reactions of children who are
16 molested. This will include the five stages encompassed in child sexual
17 abuse accommodation syndrome: 1) secrecy, 2) helplessness, 3)
18 accommodation, 4) disclosure, and 5) reaction. These experts will further testify
19 to battered person syndrome, counterintuitive victim behaviors, forensic
20 interviewing of children, autobiographical and traumatic injury, and the
21 psychology behind children’s memory and suggestibility.

22 You have not provided any information allowing one to discern which expert
23 will testify as to what opinion. You have not informed the defense as to who
24 will testify to what. **Cal. Pen. Code Sec. 1054.1(f) requires, at a bare**
25 **minimum, that the noticed party be informed as to who will testify and what**
26 **that specific expert’s opinion will be.**

27 Please let us know promptly if you disagree.

28 As you are aware, the defense has already complied with its similar obligation.

This demand is meant to ensure compliance with your obligations under, *inter*
alia, Cal. Pen. Code Sec. 1054.1(f) and is not a waiver of other available
objections or responses.

1 Please let us know immediately whether or not you intend to supplement this
2 notice and if so, by when.

3 Additionally, please provide an update as to your efforts to secure the polygraph
4 tracings and raw scoring notes which you represented to the Court you would
5 undertake at our last appearance. We understand that Detective Tracy recorded
6 placing a copy thereof in her file, so please add that location to the four others
7 referenced in our email of May 24, 2023. For convenience, those areas are
8 reiterated here:

- 9 1. Within the hard drive of the polygraph machine itself, or within any memory
10 system associated with the polygraph machine itself;
- 11 2. In any files maintained by Polygrapher Debbie Malm;
- 12 3. In any files maintained by Supervising Polygraph Examiner Michelle Coley; and
13 (but not limited to)
- 14 4. Attached to any “sent” emails that contained the data, including, but not limited
15 to, emails that were sent to the Sheriff’s Department for the purpose of
16 preservation for this case.

17 Sincerely,
18
19 Ian Wallach

20 **On May 30, 2023, Deputy District Attorney Deena Pribble explained that she would not**
21 **be producing the materials sought, and did not detail any efforts to locate the materials**
22 **related to the locations identified by Defendant Martinez’s counsel in the May 24, 2023**
23 **and May 28, 2023 emails, (Wallach Aff., ¶ 4) stating:**

24 Counsel:

25 Please refer to my original email dated May 28, 2023 regarding the scope of the
26 anticipated testimony. Please be advised there are no written or recorded
27 statements or reports as outlined in Penal Code section 1054.1(f). Please also refer
28 to CalCrim 1193. I have provided you notice of all potential experts I intend to
use.

Regarding the polygraph information you are seeking, I am informed that SBSO
cannot retrieve the data you have requested from their file system. This file system
was the only place that the data was stored.

1 Regards,

2 Deena M. Pribble

3 **The Government did not address whether efforts were undertaken to retrieve the**
4 **polygraph tracings and raw scoring data from any of the areas identified by defense**
5 **counsel. These include:**

- 6 **1. Detective Tracy’s file (as she has recorded placing a copy of these materials in**
7 **her file);**
- 8 **2. Within the hard drive of the polygraph machine itself, or within any**
9 **memory system associated with the polygraph machine itself;**
- 10 **3. In any files maintained by Polygrapher Debbie Malm;**
- 11 **4. In any files maintained by Supervising Polygraph Examiner Michelle Coley;**
12 **and (but not limited to)**
- 13 **5. Attached to any “sent” emails that contained the data, including, but not**
14 **limited to, emails that were sent to the Sheriff’s Department for the purpose**
15 **of preservation for this case.**

16 **Accordingly, the defense requests that the motion to compel be renewed and placed back**
17 **on calendar so that the Government can explain its efforts to comply with the above and**
18 **its representations to the Court made on May 22, 2023.**

19 Mr. Martinez brings this Renewed Motion pursuant to Penal Code section 1054.1,
20 *Brady v. Maryland* (1963) 373 U.S. 83 and its progeny, and the independent State and Federal
21 Court guarantees to due process of law, the effective assistance of counsel, confrontation of
22 adverse witnesses, and the right to present evidence in one’s defense. (U.S. Const. amend. V,
23 VI, and XIV; CA Const. art. I, §§ 7, 15, and 24.)

1 This Motion is based on the Declaration of Ian Wallach, Esq., and exhibits thereto, all
2 papers and documents in the Court's file, and any evidence and/or oral argument that may be
3 presented at the hearing on this matter.

4
5 DATED: June 2, 2023

THE LAW OFFICE OF IAN WALLACH, P.C.

6
7 By: 
8 IAN M. WALLACH

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MEMORANDUM OF LAW

I.

FACTUAL BACKGROUND

Defendant Pedro Martinez (“Mr. Martinez”) stands accused of four counts of lewd and lascivious acts with a child under 14 years of age in violation of Penal Code section 288(a), two counts of intercourse or sodomy with a child 10 years old or younger in violation of Penal Code section 288.7(a), four counts of oral copulation or sexual penetration with a child 10 years old or younger in violation of Penal Code section 288.7(b), and one count of distributing or showing pornography to a minor in violation of Penal Code section 288.2(a)(1). The alleged victims are Ismael R. and X’zavier M.

This a life case instigated by Magdalena Serna (“Ms. Serna”), the now stepmother of Ismael R. Based on Ms. Serna’s entirely unsubstantiated claims that Mr. Martinez sexually assaulted multiple children at Maple Elementary School, the San Bernardino County Sheriff’s Department (“SBSD”) interviewed several children (whose names were provided to them by Ms. Serna, not by either alleged victim). After extensive contact with SBSB deputies and the children’s guardians concerning possible sexual abuse, Ismael R. and X’zavier M. claimed to social workers that they were sexually abused by Mr. Martinez. Both children initially denied abuse to social workers, but after some prodding and suggestive questioning (all available on videos that have been transcribed) alleged sexual misconduct by Mr. Martinez.

Complainant Ismael R. underwent a SANE exam on January 19, 2019. No findings were discovered. Photos were expressly referenced in the report and incorporated into the report. While the Government has willingly provided the interpretive report, they have refused to provide the incorporated photographs.

Based on the allegations of Ms. Serna and the child interviews, on January 23, 2019 Mr. Martinez was contacted by San Bernadino Detective Josette Tracy and San Bernadino Detective Brian Arias regarding the allegations. Mr. Martinez denied any wrongdoing and voluntarily agreed to take a Polygraph exam. The results, per Polygrapher Debbie Malm,

1 relying on “polygraph tracing and hand scoring [notes]” determined that the polygraph exam
2 was inconclusive.

3 Detectives Tracy and Arias then falsely informed Mr. Martinez that he failed the
4 polygraph exam, as they are lawfully allowed to do to custodial suspects. (People v.
5 Mays (2009) 174 Cal.App.4th 156, 165 [95 Cal.Rptr.3d 219]). Mr. Martinez continued to
6 deny the allegations.

7 Detective Raynolds then falsely informed Mr. Martinez’s wife that Mr. Martinez was
8 taken into custody based on his performance on the polygraph. Detectives LaDuke and Carter
9 were present. The undersigned counsel is not aware of any authority for such conduct, as she
10 was not a custodial suspect, as it could interfere with a prospective witness’s testimony.

11 While the Government has provided Polygrapher Malm’s interpretive report, they have
12 refused to provide the data upon which the interpretive report relied.

13 Pursuant to Penal Code section 1054.1, *Brady v. Maryland* (1963) 373 U.S. 83 and its
14 progeny, and the independent State and Federal Court guarantees to due process of law, the
15 effective assistance of counsel, confrontation of adverse witnesses, and the right to present
16 evidence in one’s defense (U.S. Const. amend. V, VI, and XIV; CA Const. art. I, §§ 7, 15, and
17 24), Mr. Martinez moves for an order compelling the People to produce the following:

- 18 1. SART Exam Photos mentioned, referred to, and incorporated into a SANE examination
19 report regarding complainant Ismael R. (“the Ismael R. Report”), bearing report number
20 019005372930418, prepared by L. Heiland, signed on January 21, 2019, and identified
21 on Page 8 of the Ismael R. Report previously provided to the Defense (Bates Nos. P106
22 to P113 of the Government’s production).
- 23 2. The actual printouts and data (“polygraph tracing and hand scoring [notes]” as referred
24 to) relied on by Polygrapher Debbie Malm on January 23, 2019 following a polygraph
25 examination of Defendant Pedro Martinez taken in connection with File No. 191900568
26 for which a report interpreting such data was previously provided to the Defense.

1 II.

2 **EFFORTS TO OBTAIN THE REQUESTED MATERIALS**

3 By email dated May 8, 2023, the Defense requested photos related to the SANE Exam
4 referred to in the Ismael R. Report and the DATA upon which polygrapher Malm’s polygraph
5 interpretation report relied.

6 By email dated May 9, 2023, the Defense again requested, via email, the date by which
7 such documents would be provided.

8 By email dated May 9, 2023, Deputy District Attorney Deena Pribble responded as
9 follows:

10 Mr. Wallach,

11 I do not have in my possession any of the polygraph material that you are requesting.
12 I have requested the items from the Sheriff’s Department. However, their systems
13 are down and the reports cannot be obtained at this time.

14 Also, I do not have the video that you are requesting. I have requested all items
15 from Whittier Hospital where the SART exam was conducted. I did not receive
16 anything relevant to this case.

16 Deena

17 By email dated May 9th, 2023, I inquired again about the SANE exam photos expressly
18 referred to in the Ismael R. Report. I have not yet received a response.

19 III.

20 **THE PEOPLE’S REPRESENTATIONS TO THE COURT REGARDING**
21 **THE MOTION TO COMPEL**

22 On May 22, 2023 the Court inquired of the parties regarding the motion to compel. The
23 Court acknowledged that the defense was entitled to the requested materials, ordered defense
24 counsel to list the areas where the materials could be located and provide that to the People,
25 and ordered the People to comply. The parties engaged in the dialogue reproduced in the
26 Notice to this motion, annexed to the attached Declaration of Ian Wallach, and incorporated
27 herein.
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IV.

ARGUMENT

**A. MR. MARTINEZ IS ENTITLED TO THE POLYGRAPH DATA
("POLYGRAPH TRACINGS AND HAND SCORING [NOTES]) THAT COULD
LEAD TO THE DISCOVERY OF RELEVANT AND ADMISSIBLE EVIDENCE**

In the event that the polygraph results did not, as Polygrapher Malm claims, produce a result of "inconclusive" and instead produced a result of "no deception detected," such evidence would be directly relevant to the reliability of Polygrapher Malm and Detectives Tracy, Arias, and Raynolds, as well as that of any other officers who were present during the exam and/or in touch with Polygrapher Malm, whose identities are not yet known. Moreover, although the results would not be admissible, it is unclear whether Mr. Martinez's steadfast denial to the false allegations of Detectives Tracy and Arias would be. Lastly, it would also increase the severity of the conceded false statements provided by Detective Raynolds to Mr. Martinez's spouse, who was not a custodial suspect.

**B. MR. MARTINEZ HAS A CONSTITUTIONAL RIGHT TO VIEW THE
REQUESTED ITEMS**

The evidence requested above could certainly be exculpatory and discoverable to the defense pursuant to the Fourteenth Amendment of the United States Constitution and *Brady v. Maryland* (1963) 373 U.S. 83. The Due Process Clause of the United States and California Constitutions *require* that the government turn over all exculpatory evidence and all evidence relevant to guilt or punishment. (See U.S. Const. 14th Amend.; Cal. Const. art. I, §7, subd. (a); *Brady v. Maryland* (1963) 373 U.S. 83 (hereinafter "*Brady*"); *United States v. Bagley* (1985) 473 U.S. 667; *People v. Gutierrez* (2013) 214 Cal.App.4th 343, 348, as modified on denial of reh'g (Apr. 9, 2013).)

When faced with a pretrial evidentiary request under *Brady*, the government cannot second guess defense counsel's strategic judgments about the kind of evidence that will prove favorable at trial. Instead, when the prosecutor is not sure whether evidence may or may not be favorable, he or she must err on the side of disclosure. (See *United States v. Prince* (9th Cir. 2009) 566 F.3d 900, 912; *United States v. Van Brandy* (9th Cir. 1984) 726 F.2d 548, 552 ["where doubt exists as to the usefulness of evidence, [the government] should resolve such

1 doubts in favor of full disclosure”].) “[T]he suppression by the prosecution of evidence
2 favorable to an accused upon request violates due process where the evidence is material either
3 to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.” (*Brady*
4 *v. Maryland, supra*, 373 U.S. at p. 87.)

5 This duty is not just a trial right, but also applies to preliminary hearings. (*People v.*
6 *Gutierrez, supra*, 214 Cal.App.4th at p. 349, citing *Stanton v. Superior Court* (1987) 193.
7 Cal.App.3d 265, 267 (noting that the *Stanton* Court “str[uck] an element of the charged
8 offense because of ‘the prosecution’s failure to disclose evidence material to defense cross-
9 examination of eyewitnesses at a preliminary hearing’”).)

10 Here, the specific information requested by the defense could certainly lead to the
11 discovery of admissible evidence and could likely be exculpatory evidence as well. The
12 Defendant has a right to due process at trial. Denying or improperly limiting his right to a
13 pursue a defense would be constitutional error. (See *United States v. Bagley, supra*, 473 U.S.
14 at p. 676.)


15 V.

16 **CONCLUSION**

17 For the reasons stated herein, Mr. Martinez respectfully requests that this Court grant
18 his Motion to Compel Discovery.

19 DATED: June 2, 2023

20 **LAW OFFICE OF IAN WALLACH, P.C.**

21 By: 
22 IAN WALLACH
23 Attorney for Defendant
24 PEDRO MARTINEZ

1 **DECLARATION OF IAN WALLACH**

2 I, Ian Wallach, declare as follows:

3 1. I am an attorney duly admitted to practice law in the State of California and am
4 an attorney for Defendant Pedro Martinez (“Mr. Martinez”) in the above-entitled matter. I
5 make this declaration in support of Mr. Martinez’s Motion to Compel the data (referred to as
6 polygraph tracing and hand-scoring [notes]) in the possession of the San Bernadino County
7 Sheriff’s Department.

8 2. Attached hereto as EXHIBIT A is a true and correct copy of the email sent from
9 Defense Counsel to Deputy District Attorney Deena Pribble on May 24, 2023.

10 3. Attached hereto as EXHIBIT B is a true and correct copy of the email sent from
11 Defense Counsel to Deputy District Attorney Deena Pribble on May 28, 2023.

12 4. Attached hereto as EXHIBIT C is a true and correct copy of the response of
13 Deputy District Attorney Deena Pribble dated May 30, 2023.

14 I declare under penalty of perjury under the laws of the State of California that the
15 foregoing is true and correct. Executed this 2nd day of June 2023, at Los Angeles, California.

16 
17
18 IAN WALLACH

EXHIBIT A

From: Ian Michael Wallach iwallach@wallachlegal.com
Subject: People v. Martinez, FV119000218. Areas for Location of Raw Polygraph Data for Januioary 23, 2019 of Pedro Martinez
Date: May 24, 2023 at 1:29 PM
To: Pribble, Deena DPribble@sbcda.org
Cc: McBroom Kacey kmcbrook@kaedianllp.com, Vena Tracy tvena@kaedianllp.com



Ms. Pribble,

Per the Court's instruction, this letter serves to identify at least four other areas where the sought polygraph tracings and scoring notes can be located, in addition to locating them from the Sheriff's office database.

The items sought should be located:

1. Within the hard drive of the polygraph machine itself, or within any memory system associated with the polygraph machine itself;
2. In any files maintained by Polygrapher Debbie Malm;
3. In any files maintained by Supervising Polygraph Examiner Michelle Coley; and (but not limited to)
4. Attached to any "sent" emails that contained the data, including, but not limited to, emails that were sent to the Sheriff's Department for the purpose of preservation for this case.

Please let us know when we can be updated as to the efforts to locate and, hopefully, production of the polygraph tracings and the hand scoring notes.

Sincerely,

Ian Wallach

The Law Offices of Ian Wallach, P.C.
5777 West Century Boulevard, Suite 750
Los Angeles, CA 90045
T: 213.375.0000 · F: 213.402.5516

www.wallachlegal.com

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EXHIBIT B

From: Ian Michael Wallach iwallach@wallachlegal.com 
Subject: Re: People v. Pedro Martinez
Date: May 29, 2023 at 8:11 PM
To: Pribble, Deena DPribble@sbcda.org
Cc: McBroom Kacey kmcroom@kaedianllp.com, Vena Tracy tvena@kaedianllp.com
Bcc: Law Offices of Ian Wallach, PC iwallach@wallachlegal.com



Counsel,

I am in receipt of your correspondence below of May 28, 2023 containing identifying information regarding Veronica Thomas, Ph.D.; Blake D. Carmichael, Ph.D.; Lauren Maltby, Ph.D., and Jody Ward, Ph.D.

You state that these experts will testify to:

Child Sexual Abuse Accommodation Syndrome (CSAAS); specifically that CSAAS describes and explains common reactions of children who are molested. This will include the five stages encompassed in child sexual abuse accommodation syndrome: 1) secrecy, 2) helplessness, 3) accommodation, 4) disclosure, and 5) reaction. These experts will further testify to battered person syndrome, counterintuitive victim behaviors, forensic interviewing of children, autobiographical and traumatic injury, and the psychology behind children's memory and suggestibility.

You have not provided any information allowing one to discern which expert will testify as to what opinion. You have not informed the defense as to who will testify to what. Cal. Pen. Code Sec. 1054.1(f) requires, at a bare minimum, that the noticed party be informed as to who will testify and what that specific expert's opinion will be.

Please let us know promptly if you disagree.

As you are aware, the defense has already complied with its similar obligation.

This demand is meant to ensure compliance with your obligations under, *inter alia*, Cal. Pen. Code Sec. 1054.1(f) and is not a waiver of other available objections or responses.

Please let us know immediately whether or not you intend to supplement this notice and if so, by when.

Additionally, please provide an update as to your efforts to secure the polygraph tracings and raw scoring notes which you represented to the Court you would undertake at our last appearance. We understand that Detective Tracy recorded placing a copy thereof in her file, so please add that location to the four others referenced in our email of May 24, 2023. For convenience, those areas are reiterated here:

1. Within the hard drive of the polygraph machine itself, or within any memory system associated with the polygraph machine itself;
2. In any files maintained by Polygrapher Debbie Malm;
3. In any files maintained by Supervising Polygraph Examiner Michelle Coley; and (but not limited to)
4. Attached to any "sent" emails that contained the data, including, but not limited to, emails that were sent to the Sheriff's Department for the purpose of preservation for this case.

Sincerely,

Ian Wallach

The Law Offices of Ian Wallach, P.C.
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On May 28, 2023, at 10:16 AM, Pribble, Deena <DPribble@sbcda.org> wrote:

Counsel,

Attached please find the curricula vitae for the People's expert witnesses.

I intend to call these experts to testify to Child Sexual Abuse Accommodation Syndrome (CSAAS); specifically that CSAAS describes and explains common reactions of children who are molested. This will include the five stages encompassed in child sexual abuse accommodation syndrome: 1) secrecy, 2) helplessness, 3) accommodation, 4) disclosure, and 5) reaction.

These experts will further testify to battered person syndrome, counterintuitive victim behaviors, forensic interviewing of children, autobiographical and traumatic injury, and the psychology behind children's memory and suggestibility.

Additionally, I am in receipt of your April 4, 2023 correspondence, in which you identified your expert witnesses. After reviewing your correspondence, I respectfully request that you immediately provide copies of the following documents:

1. Any and all reports, interviews, data, notes and conclusions of Judy Malmgren BSN, RN, SANE-A SART pertaining to her anticipated testimony 'that no corroborating evidence was discovered during either SART exam of the complaining witnesses';
2. Any and all interviews of the witness, reports, data, notes and conclusions of Bradley McAuliff, J.D., Ph.D. related to 'the reliability of a child's testimony, a child's capacity to be affected by certain interrogation techniques, which techniques prove to be/not be reliable and upon what grounds, science of false memory, false memory recall, and transferred trauma';
3. Any and all interviews of the witness including reports, data, notes and conclusions of Robin Sax, J.D., MSW pertaining to her review of 'the manner and technique of the interviews of the complaining witnesses in this matter';
4. Any and all interviews, reports, data, notes, records, and complete tests such as the mentioned 'standardized written personality tests,' and any other tests, questions and answers used by Richard Romanoff Ph D. to form his opinion that Mr. Martinez

answers used by Richard Robinson P.H.D. to form his opinion that Mr. Martinez does not display signs of "deviance" or "abnormality"; and

5. All depositions, witness statements, and unredacted Child and Family Services records obtained in response to Defendant Martinez's 827 Petitions for Disclosure of Juvenile Case Files of Ismael R. and Xavier B.
6. All interviews, depositions, video interviews, and audio recordings of the **twenty-two** witnesses that Mr. Wallach announced to the court on 5/9 that he intended to call at trial.

Please do not hesitate to contact me if you have any questions or concerns or need any other information relating to the above request.

Deena M. Pribble
Lead Deputy District Attorney
Family Violence Unit - Victorville
San Bernardino County District Attorney
Office: (760) 243-8600
Desk: (760) 243-8616



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CurriculumVitae
VTMar...py.pdf



CV.b.carmichael
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CV2020 (002)
VT.pdf

Consultation and Trial Fee Schedule for Dr. Lauren Maltby

Review of medical records and other materials related to trial, along with all research in support of the retaining party will be billed at \$300 per hour.

Trial preparation (email, video conferencing and telephone) will be billed at \$300 per hour.


All in-person and remote work, including expert consultation, testimony and investigation assistance will be billed at \$300 per hour (regardless of actual hours).

Travel time will be billed accordingly:

- If flying is necessary, travel time will be billed at \$300 per hour from one hour prior to flight departure until check-in at destination. Necessary expenses incurred in order to travel (e.g., transportation to and from airport) will be billed to the retaining party.
- If only driving is necessary, travel time will be billed at \$300 per hour for actual drive time, plus mileage (62.5 cents/mile)



EXHIBIT C

From: Pribble, Deena DPribble@sbcda.org 
Subject: RE: People v. Pedro Martinez
Date: May 30, 2023 at 6:37 PM
To: Ian Michael Wallach iwallach@wallachlegal.com
Cc: McBroom Kacey kmcbroom@kaedianllp.com, Vena Tracy tvena@kaedianllp.com

PD

Counsel:

Please refer to my original email dated May 28, 2023 regarding the scope of the anticipated testimony. Please be advised there are no written or recorded statements or reports as outlined in Penal Code section 1054.1(f). Please also refer to CalCrim 1193. I have provided you notice of all potential experts I intend to use.

Regarding the polygraph information you are seeking, I am informed that SBSO cannot retrieve the data you have requested from their file system. This file system was the only place that the data was stored.

Regards,

Deena M. Pribble

From: Ian Michael Wallach <iwallach@wallachlegal.com>
Sent: Monday, May 29, 2023 8:11 PM
To: Pribble, Deena <DPribble@sbcda.org>
Cc: McBroom Kacey <kmcbroom@kaedianllp.com>; Vena Tracy <tvena@kaedianllp.com>
Subject: Re: People v. Pedro Martinez

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. If you suspect this is a phishing or malicious email, please contact the DA HelpDesk immediately for assistance.

Counsel,

I am in receipt of your correspondence below of May 28, 2023 containing identifying information regarding Veronica Thomas, Ph.D.; Blake D. Carmichael, Ph.D.; Lauren Maltby, Ph.D., and Jody Ward, Ph.D.

You state that these experts will testify to:

Child Sexual Abuse Accommodation Syndrome (CSAAS); specifically that CSAAS describes and explains common reactions of children who are molested. This will include the five stages encompassed in child sexual abuse accommodation syndrome: 1) secrecy, 2) helplessness, 3) accommodation, 4) disclosure, and 5) reaction. These experts will further testify to battered person syndrome, counterintuitive victim behaviors, forensic interviewing of children, autobiographical and traumatic injury, and the psychology behind children's memory and suggestibility.

~~CONFIDENTIAL AND PRIVILEGED~~

You have not provided any information allowing one to discern which expert will testify as to what opinion. You have not informed the defense as to who will testify to what. Cal. Pen. Code Sec. 1054.1(f) requires, at a bare minimum, that the noticed party be informed as to who will testify and what that specific expert's opinion will be.

Please let us know promptly if you disagree.

As you are aware, the defense has already complied with its similar obligation.

This demand is meant to ensure compliance with your obligations under, *inter alia*, Cal. Pen. Code Sec. 1054.1(f) and is not a waiver of other available objections or responses.

Please let us know immediately whether or not you intend to supplement this notice and if so, by when.

Additionally, please provide an update as to your efforts to secure the polygraph tracings and raw scoring notes which you represented to the Court you would undertake at our last appearance.

We understand that Detective Tracy recorded placing a copy thereof in her file, so please add that location to the four others referenced in our email of May 24, 2023. For convenience, those areas are reiterated here:

1. Within the hard drive of the polygraph machine itself, or within any memory system associated with the polygraph machine itself;
2. In any files maintained by Polygrapher Debbie Malm;
3. In any files maintained by Supervising Polygraph Examiner Michelle Coley; and (but not limited to)
4. Attached to any "sent" emails that contained the data, including, but not limited to, emails that were sent to the Sheriff's Department for the purpose of preservation for this case.

Sincerely,

Ian Wallach

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On May 28, 2023, at 10:16 AM, Pribble, Deena <DPribble@sbcda.org> wrote:

Counsel,

Attached please find the curricula vitae for the People's expert witnesses.

I intend to call these experts to testify to Child Sexual Abuse Accommodation Syndrome (CSAAS); specifically that CSAAS describes and explains common reactions of children who are molested. This will include the five stages encompassed in child sexual abuse accommodation syndrome: 1) secrecy, 2) helplessness, 3) accommodation, 4) disclosure, and 5) reaction.

These experts will further testify to battered person syndrome, counterintuitive victim behaviors, forensic interviewing of children, autobiographical and traumatic injury, and the psychology behind children's memory and suggestibility.

Additionally, I am in receipt of your April 4, 2023 correspondence, in which you identified your expert witnesses. After reviewing your correspondence, I respectfully request that you immediately provide copies of the following documents:

1. Any and all reports, interviews, data, notes and conclusions of Judy Malmgren BSN, RN, SANE-A SART pertaining to her anticipated testimony 'that no corroborating evidence was discovered during either SART exam of the complaining witnesses';
2. Any and all interviews of the witness, reports, data, notes and conclusions of Bradley McAuliff, J.D., Ph.D. related to 'the reliability of a child's testimony, a child's capacity to be affected by certain interrogation techniques, which techniques prove to be/not be reliable and upon what grounds, science of false memory, false memory recall, and transferred trauma';
3. Any and all interviews of the witness including reports, data, notes and conclusions of Robin Sax, J.D., MSW pertaining to her review of 'the manner and technique of the interviews of the complaining witnesses in this matter';
4. Any and all interviews, reports, data, notes, records, and complete tests such as the mentioned 'standardized written personality tests,' and any other tests, questions and answers used by Richard Romanoff Ph.D. to form his opinion that Mr. Martinez does not display signs of "deviance" or "abnormality"; and
5. All depositions, witness statements, and unredacted Child and Family

Services records obtained in response to Defendant Martinez's 827
Petitions for Disclosure of Juvenile Case Files of Ismael R. and Xavier B.

6. All interviews, depositions, video interviews, and audio recordings of the **twenty-two** witnesses that Mr. Wallach announced to the court on 5/9 that he intended to call at trial.

Please do not hesitate to contact me if you have any questions or concerns or need any other information relating to the above request.

Deena M. Pribble
Lead Deputy District Attorney
Family Violence Unit - Victorville
San Bernardino County District Attorney
Office: (760) 243-8600
Desk: (760) 243-8616



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1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3
4 I am employed in the County of Los Angeles, State of California. I am over the age of
5 eighteen years and not a party to the within action. My business address is 8383 Wilshire
6 Blvd. Suite 210, Beverly Hills, CA 90211.

7 On June 2, 2023, I served the following document(s) described as: **DEFENDANT**
8 **PEDRO MARTINEZ' NOTICE OF MOTION AND MOTION TO COMPEL** in this
9 action by placing true copies thereof enclosed in sealed envelopes and/or packages addressed
10 as follows:

11 Deena Pribble
12 San Bernardino County District Attorney
13 14455 Civic Dr Ste 300,
14 Victorville, CA 92392-2312
15 Email: dpribble@sbcda.org

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

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

27 **BY HAND DELIVERY:** I caused such envelope(s) to be delivered by hand to the
28 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 June 2, 2023 at Los Angeles, California.



TRACY VENA