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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 CALIFORNIA,

20 v.

21 Plaintiff,

22 PEDRO MARTINEZ,

23 Defendant.

24 CASE: FVI19000218

25 **DEFENDANT PEDRO MARTINEZ'S  
26 RENEWED MOTION TO COMPEL  
27 DISCOVERY AND RECONSIDER  
PRECLUSION OF EVIDENCE  
RELATED TO JANUARY 30, 2019  
MEETING**

1 I. MOTION TO RECONSIDER COMPELLING THE PRODUCTION OF  
2 EVIDENCE RELATED TO MEETING THAT OCCURRED ON OR ABOUT  
3 JANUARY 30, 2019 ATTENDED BY DDA PRIBBLE, DETECTIVE  
4 TRACY; MAGDALENA SERNA; AND PARENTS OF STUDENTS OF  
5 MAPLE ELEMENTARY AND PRECLUDING DEFENSE FROM  
6 ADDRESSING SAME

7 The defense has evidence that a meeting took place on or about January 30, 2019,  
8 attended by several parents of children who are not complaining witnesses; Magdalena  
9 Serna; Deputy District Attorney Deena Pribble, and others. The defense has in its  
10 possession evidence that officer Arias spoke with parents prior to meeting about what  
11 will be discussed and the “dos and don’ts” that the attendees were going to be advised as  
12 to.

13 The defense has sought evidence related to this meeting, including:

- 14 • who attended the meeting;
- 15 • what was discussed;
- 16 • who took part in those discussions;
- 17 • what evidence the families were told had been discovered; and
- 18 • what exculpatory evidence was relayed from parents of children not  
19 involved in this criminal action.

20 The People refused to provide the requested discovery -- asserting it was merely a  
21 “meet-and-greet”, that nothing else of substance was discussed, and that therefore the  
22 information was exempt from discovery.

23 The defense brought a motion to compel that was successfully challenged by the  
24 People.

25 The defense renewed its motion during pre-trial motions with this trial Court. The  
26 People represented to this trial court that the pre-trial court determined that the  
27 documents were protected under Marsy’s law.

1 This Court again denied the defense’s motion to compel information related to this  
2 meeting.

3 During trial there has been testimony that the officers have no motive to fabricate  
4 information or fail to perform a thorough investigation. But if Detective Tracy, as the  
5 defense maintains, made representations attendees regarding what to “do and not do”  
6 (which the defendant has evidence of), and described the allegations, and made  
7 representations about evidence that either had or claim to have had, then making good on  
8 those representations is a motive to fabricate information or fail to perform a thorough  
9 investigation.

10 Simply put, it is relevant to the position that once the officers told attendees that  
11 their children were molested, they could not turn back.

12 Moreover, it is relevant to the conduct and reliability of the witnesses who  
13 attended or discussed this meeting.

14 Furthermore, if any denials (which likely occurred) or other exculpatory evidence  
15 was shared at the meeting, the defense was entitled to such information.

16 The information is discoverable under *Brady* and its progeny and California Pen.  
17 Code Section 1054. It should have been disclosed at the commencement of this action. It  
18 should be disclosed now.

19 Moreover, there should be no preclusion on the defense to explore or discuss  
20 evidence related to this meeting.

21  
22 II. MOTION TO RECONSIDER COMPELLING THE PRODUCTION OF  
23 EVIDENCE OF CONVERSATIONS BETWEEN PAUL MATIASIC AND  
24 ANY EMPLOYEE OF THE SAN BERNADINO DISTRICT ATTORNEY’S  
25 OFFICE AND/OR THE SAN BERNADINO SHERIFF’S DEPARTMENT  
26

1 Defendant previously brought a motion to compel statements related to  
2 conversations between Paul Matiasic, counsel to Ismael in the related civil action.  
3 Evidence has come out in trial that Mr. Matiasic:

- 4 (1) Arrived at the home of Magdalena Serna, per a demand of Magdalena Serna,  
5 with a news crew, to do a segment, as a requirement of Magdalena Serna, in  
6 exchange for allowing his representation of Ismael in the related civil action;
- 7 (2) Presumably, Mr. Matiasic interviewed Ismael, his client, and the duration and  
8 place of that call are discoverable and not protected by the attorney-client  
9 privilege;
- 10 (3) Spoke with Magdalena Serna about what Ismael had disclosed to her on January  
11 19, 2019; and
- 12 (4) Supplied the mental health professional that allowed Ismael to “unlock” his  
13 memory that the defendant touched his penis, to which Ismael testified in this  
14 matter; and
- 15 (5) contacted the family of Milly Moran and offered representation;

16 This Court previously signed an affidavit allowing for service over a party who  
17 resides more than 150 miles from the Courthouse.

18 Mr. Matiasic has refused to accept service on himself at his office or through his  
19 counsel, Alan Jackson, that appeared in this action, but has since refused to accept service  
20 upon Mr. Matiasic.

21 Upon information and belief, Mr. Matiasic is intentionally avoiding service.

22 Upon information and belief, Mr. Matiasic may still be communicating to Deputy  
23 District Attorney Pribble and or members of the San Bernadino Sheriff’s Department.

24 We are still attempting to effect service and multiple efforts have previously been  
25 made to effectuate service.

26 Mr. Matiasic is a witness with relevant evidence. Communications between  
27 himself and any member of the District Attorney’s Office and/or the San Bernadino  
Sheriff’s Department are relevant to determine whether inculpatory or exculpatory

1 evidence was provided to the prosecutor and what assistance was provided by Mr.  
2 Matiasic in prosecuting this case.

3 Mr. Matiasic may have provided information about treating mental health  
4 professionals to the prosecution, who may have such information in their possession or be  
5 aware of where such information exists.

6 Such assistance is not within the purview of the work product doctrine, which is  
7 codified in Cal Pen Code § 1054.6 and Section 2018.030 of the Code of Civil Procedure.

8 Cal Pen Code § 1054.6 provides as follows:

9 Neither the defendant nor the prosecuting attorney is required to disclose any  
10 materials or information which are work product as defined in subdivision (a) of  
11 Section 2018.030 of the Code of Civil Procedure, or which are privileged pursuant  
12 to an express statutory provision, or are privileged as provided by the Constitution  
13 of the United States.

14 California Code of Civil Procedure - CCP § 2018.030 provides as follows:

15  
16 (a) A writing that reflects an attorney's impressions, conclusions, opinions, or legal  
17 research or theories is not discoverable under any circumstances.

18 (b) The work product of an attorney, other than a writing described in subdivision  
19 (a), is not discoverable unless the court determines that denial of discovery will  
20 unfairly prejudice the party seeking discovery in preparing that party's claim or  
21 defense or will result in an injustice.

22 The work product privilege is explained in *Tucker Ellis LLP v. Superior Court (Nelson)*  
(2017) 12 Cal.App.5th 1233, 1245:

23 We note at the outset that the primary purpose of the privilege is to encourage  
24 attorneys to honestly and objectively evaluate cases by eliminating fear of  
25 compelled disclosure of the results of their efforts to those outside the attorney-  
26 client relationship. (See *Coito, supra*, 54 Cal.4th at pp. 493, 495–496; *Lasky, supra*,  
172 Cal.App.3d at p. 279; *Citizens for Ceres v. Superior Court* (2013) 217

1 Cal.App.4th 889, 920 [“purpose of the attorney work-product doctrine is to allow  
2 attorneys to advise and prepare without risk of revealing their strategies to the other  
side or of giving the other side the benefit of their efforts”].)

3 There is no interpretation wherein a prosecutor’s conversations with counsel to a  
4 client, who is an alleged victim in a criminal case, are protected under the work product  
5 doctrine.

6 Accordingly, the defense renews its request, for the third time, for statements  
7 from, and dates of, communications between Paul Matiasic and employees of the District  
8 Attorney’s office and/or the San Bernadino Sheriff’s Department. Such evidence should  
9 have been produced to the defense under Cal. Pen. Code Section 1504.1(e) and *Brady v.*  
10 *Maryland*, 373 U.S. 83 (1963).

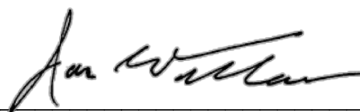
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12 III. CONCLUSION

13 For the reasons set forth above, this Court should compel the production of evidence  
14 discussed above and allow the defense to address the January 30, 2019 meeting.

15  
16 Respectfully Submitted,

17 DATED: November 9, 2023

LAW OFFICES OF IAN WALLACH, P.C.

18  
19 By: 

20 IAN M. WALLACH  
21 *Attorney for Defendant,*  
22 PEDRO MARTINEZ