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FILED
Superior Court Of California,
Sacramento
04/23/2010
amacias
By _____, Deputy
Case Number:
34-2010-80000521

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SACRAMENTO**

11
12 CALIFORNIA CORRECTIONAL
PEACE OFFICERS ASSOCIATION and
13 CHARLES ALEXANDER

CASE NO.

14
15 Petitioners,

VERIFIED PETITION FOR WRIT
OF MANDATE, DECLARATORY
RELIEF and INJUNCTIVE RELIEF.
(CCP §§ 1085, 1086) (GC § 6258)

16 v.

17
18 THE CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION;
MATTHEW CATE, SECRETARY OF
19 CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION;
20 and DOES 1 through 20, inclusive,

Date:
Time:
Dept: 29

21 Respondents.
_____ /

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1 **INTRODUCTION**

2 The California Correctional Peace Officer Association (“CCPOA”) and Charles Alexander
3 (hereafter referred to as “Petitioners”) petition this Court for the issuance of a Writ of Mandate,
4 Declaratory Relief, and Injunctive Relief pursuant to California Code of Civil Procedure § 1085 and
5 California Government Code § 6258, directing Respondents, California Department of Corrections and
6 Rehabilitation (“CDCR”) and Matthew Cate (hereafter referred to as “Respondents”), to perform all
7 duties enjoined upon them by law in connection with a request for information made pursuant to the
8 California Public Records Act (“CPRA”), California Government Code § 6250, et seq.¹

9 **PARTIES**

10 1. Petitioner, CCPOA, is a California Non-Profit Mutual Benefit Corporation, and is the
11 exclusive representative for all State correctional peace officer employees in Bargaining Unit Six.
12 Bargaining Unit Six consists of rank and file correctional peace officers employed by the CDCR.

13 2. Charles Alexander is the Executive Vice President of CCPOA.

14 3. Respondent CDCR is the duly constituted body created and existing under the
15 statutory authority of the State of California for the purpose of administering California’s adult and
16 juvenile correctional system. Respondent CDCR has custody of people convicted of crimes under
17 California law and sentenced to terms in California correctional facilities.

18 4. Respondent, Matthew Cate, is the duly appointed Secretary of the CDCR and, as such,
19 is entrusted with the official responsibility of the supervision, management and control of the state
20 correctional system. He has such duties and powers as are vested in him by the statutes and regulations
21 of the State of California. He is named herein in his official capacity as Secretary of the CDCR and
22 not as an individual.

23 5. Petitioners are ignorant of the true names or capacities of the Respondents’ sued herein
24 under the fictitious names Does 1 through 10, inclusive, and will amend this Petition for Writ of
25 Mandate, Declaratory Relief and Injunctive Relief accordingly when their true identities are
26 ascertained.

27 _____
28 ¹All references to statutes are to the California Government Code unless otherwise stated

1 11. On February 10, 2010, Charles Alexander, Executive Vice President of CCPOA, made
2 a reasonable written request on behalf of CCPOA pursuant to the CPRA to Respondents for public
3 records maintained by CDCR. Specifically, among other things, Petitioners requested the following
4 information:

5 “1. All costs incurred to date by CDCR in relation to each and every lawsuit
6 listed on the attached printout, including any settlement costs. Specifically, the
actual amount expended by CDCR on each and every case.

7 However, if there are claims and/or lawsuits not included in the attached
8 printout, I hereby request that you provide me with copies of the following
9 documents for the years 2007 to the present, records and/or writings, which I
understand to be in the custody, possession or control of CDCR:

10 2. All information relating to cases filed in a California and/or federal court
against CDCR and defended internally by CDCR, specifically:

- 11 a. The case name/caption;
- 12 b. The case number;
- 13 c. The court in which the case was filed; and
- 14 d. All costs incurred to date by CDCR to defend the court action for
each case including any cases that were settled between CDCR and the
filing party. Specifically, the actual amount expended by CDCR on
each and every case.

15 3. All information relating to cases filed in a California and/or federal court by
CDCR internal counsel, specifically:

- 16 a. The case name/caption;
- 17 b. The case number;
- 18 c. The court in which the case was filed; and
- 19 d. All costs incurred to date by CDCR to file and pursue the court
action for each case including any cases that were settled between
CDCR and the opposing party. Specifically, the actual amount
expended by CDCR on each and every case.

20 4. All information relating to cases filed in a California and/or federal court
against CDCR and defended by external counsel on CDCR's behalf,
specifically:

- 21 a. The case name/caption;
- 22 b. The case number;
- 23 c. The court in which the case was filed; and
- 24 d. All costs incurred to date by CDCR to file and pursue the court
action for each case including any cases that were settled between
CDCR and the filing party. Specifically, the actual amount expended
by CDCR on each and every case.

25 5. All information relating to cases filed in a California and/or federal court by external
counsel on CDCR's behalf, specifically:

- 26 a. The case name/caption;
- 27 b. The case number;
- 28 c. The court in which the case was filed; and
- d. All costs incurred to date by CDCR to file and pursue the court
action for each case including any cases that were settled between

1 **FIRST CAUSE OF ACTION**

2 **(Petition for Writ of Mandate)**

3 15 Petitioners re-allege and incorporate by reference each and every allegation set forth in
4 the preceding paragraphs.

5 16. Respondents, at all relevant times mentioned herein, had a clear, present and legal duty,
6 pursuant to the CPRA, § 6250 *et seq* , to provide the requested documents to Petitioners. Respondents'
7 failure to provide the documents or respond in a timely manner is a breach of that legal duty. The
8 performance of this legal duty may be ordered by this Court pursuant to CCP § 1085, and the CPRA.

9 17. This petition is filed timely and equity favors granting Petitioners relief as requested.

10 18. Petitioners have standing in this matter. Petitioners are beneficially interested in the
11 issuance of the writ because the failure of the Respondents to provide the requested documents has an
12 immediate impact on CCPOA and its members.

13 19. Because the harm that will result to CCPOA by the failure of Respondents' to disclose
14 the documents cannot be measured in damages, Petitioners have no plain, speedy or adequate remedy
15 in the ordinary course of law. Thus, an order must issue pursuant to CCP § 1086.

16 20. Petitioners have no administrative remedy available under the CPRA.

17 **SECOND CAUSE OF ACTION**

18 **(Request for Declaratory Relief)**

19 21. Petitioners re-allege and incorporate by reference each and every allegation set forth in
20 the preceding paragraphs.

21 22. Respondents have failed to responded to Petitioners' requests for information and/or
22 request for an extension as required by the CPRA.

23 23. Petitioners desire a judicial determination of its rights, as interested citizens, and
24 Respondents' duties under the CPRA regarding the records referred to in paragraph 11.

25 **THIRD CAUSE OF ACTION**

26 **(Request for Injunctive Relief)**

27 24. Petitioners re-allege and incorporate by reference each and every allegation set forth in
28 the preceding paragraphs.

1 with copies of all non-confidential portions of the records requested in Paragraph 11 after any
2 confidential portions have been deleted;

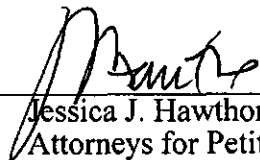
3 6. That Petitioners recover court costs and reasonable attorneys' fees pursuant to the
4 CPRA (§ 6259(d));

5 7. For such other and further relief as the Court deems just and proper.
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7 Respectfully submitted,

8 **CALIFORNIA CORRECTIONAL**
9 **PEACE OFFICERS ASSOCIATION**
10 **LEGAL DEPARTMENT**

11 Dated: April 22, 2010

12 By: 
13 Jessica J. Hawthorne
14 Attorneys for Petitioners
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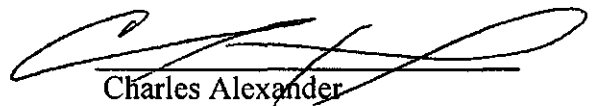
VERIFICATION

I, CHARLES ALEXANDER, declare:

I am a Petitioner in the above-entitled proceeding. I have read the foregoing Petition for Writ of Mandate, Declaratory Relief and Injunctive Relief and know its contents except as to those matters which are alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: April 22, 2010


Charles Alexander