

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
CENTRAL**

**MINUTE ORDER**

DATE: 07/18/2022

TIME: 11:15:00 AM

DEPT: C-67

JUDICIAL OFFICER PRESIDING: Eddie C Sturgeon

CLERK: Stephanie Goodrich

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT: M. Micone

CASE NO: **37-2020-00040983-CU-BC-CTL** CASE INIT.DATE: 11/09/2020

CASE TITLE: **RATEKIN vs UNIVERSITY OF SAN DIEGO [IMAGED]**

CASE CATEGORY: Civil - Unlimited      CASE TYPE: Breach of Contract/Warranty

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**APPEARANCES**

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The Court, having taken the above-entitled matter under submission on 07/15/2022 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

**FINAL RULING:**

On June 7, 2022, the court advanced all motions and hearings to July 15, 2022 to be heard concurrently. (ROA 431.) After reviewing all the papers in this case, the court rules as follows.

The University of San Diego's ("USD") Motion for Summary Judgment (ROA 210), Motion to Quash Subpoena to National Counsel for Accreditation of Teacher Education (ROA 78), and Motion to Quash Subpoena to the California Commission on Teacher Credentialing (ROA 108) are **GRANTED**. USD's Motion for Terminating Sanctions and Prefiling Order Declaring Plaintiff a Vexatious Litigant (ROA 372) is **GRANTED** in part and **DENIED** as moot in part. USD's objections to Plaintiff's declarations are overruled. Sanctions are awarded to USD in the amount of \$5,190.00 for the motions to quash subpoenas, and \$3,315.00 in the sanctions reserved at the March 14, 2022 hearing, for a total of \$8,505.00.

Plaintiff Nicholas Ratekin's Motion to Compel Discovery from Google, Inc. (ROA 83), Motion to Compel Discovery from META/Facebook, Inc. (ROA 92), Motion to Compel Discovery from National University President Randy Frisch (ROA 143), Motion for Change of Venue (ROA 209), Motion to Enforce Subpoena against the National Freedom of Information Act Office (ROA 285), Motion to Enforce Subpoena against "University of San Diego Student Emergency Contact Jennifer Lynn Ratekin" (ROA 314), Motion to Enforce Subpoena against Scripps ranch High School Athletic Director, Todd Wilson (ROA 357), Motion to Enforce Subpoena against Special Education Teacher Julie Schilie (ROA 359), Motion to Disqualify Counsel (ROA 432), and Ex Parte Application for Sanctions (ROA 360) are **DENIED**. Sanctions are awarded to Non-Party Google LLC as requested in the amount of \$5,000.00 (ROA 510, Declaration of Thea E. Percial, ¶¶ 7-8) and to Non-Party Meta Platforms, Inc. in the amount of \$4,520.00 (ROA 512, Declaration of Kim Y. Ng, ¶ 6).

Non-Party Michael S. Dell's Motion to Quash Subpoena (ROA 84) is **GRANTED**. No sanctions were requested.

This case was filed on November 9, 2020. Plaintiff's attorney moved to be relieved as counsel in September 2021. After the court granted the motion to be relieved, Plaintiff began to represent himself. Thereafter, Plaintiff began serving an extreme amount of discovery (e.g., over 100 subpoenas) on a broad range of parties, including local, state, and federal officials, agencies, and educational institutions as well as various individuals.

On March 14, 2022, in response to USD's motion for a protective order and a motion to quash this court ordered an end to Plaintiff's discovery unless the court's permission was obtained in advance. This order did not stop Plaintiff, who chose to take a narrow view of the order and believed that it did not prevent him from pursuing discovery requests that had been propounded prior to the order. But that was not the court's intent. The court's order was express that no further discovery was permitted absent further court authorization regardless of when it was initially served. Otherwise, the court would not have achieved the purpose of its order-to prevent tens of parties from filing and scheduling motions to quash. Since that order, Plaintiff has continuously filed ex parte applications requesting relief from the protective order. The Court denied those requests. Those denials had only one exception: on June 23, 2022, the Court granted Plaintiff's request to take the deposition of USD's former Student Teaching Placement Coordinator Serena Pariser from June 23, 2022 to July 8, 2022. Because Ms. Pariser was no longer employed by USD and not available to be deposed by July 8, 2022, USD produced Dr. Reyes Quezada as the person most knowledgeable to answer Plaintiff's questions. Supplemental filings were provided to the court based on Dr. Quezada's deposition, which the court has reviewed.

Since the ex parte hearing on June 7, 2022, Plaintiff has filed more than 40 declarations in support of his various motions and oppositions containing wholly irrelevant information. For example, numerous declarations are filed by Plaintiff's grandfather and other family members regarding the ownership of a fax machine that was used to transmit subpoenas from December 2021 to May 19, 2021 and that those subpoenas were sent independent of Plaintiff. (E.g., ROA 477 [Declaration of Ron Ratekin].) Other declarations come from Plaintiff's past water polo teammates, coaches, and other acquaintances that speak to Plaintiff's water polo acumen, academic performance, and general character but provide nothing of relevance as to this case. (ROA 494 [Declaration of Mike Flannagan]; ROA 495 [Declaration of Deborah Clukey]; ROA 500 [Declaration of Travis Knight]; ROA 505 [Declaration of Austin Fennacy]; ROA 520 [Declaration of Rob Knight]; ROA 522 [Declaration of Randall Burgess]; ROA 538 [Declaration of Lazlo Gyori]; ROA 539 [Declaration of Kent Houston].) Still other declarations are from individuals of unknown relation to this case stating that they viewed a Facebook page titled "University of San Diego Faces Cancel Culture Lawsuit" and that it is their understanding that Plaintiff was "disenrolled" from USD "based on his political beliefs and support of President Donald J. Trump." (E.g., ROA 488 [Declaration of Jim Simonson], ROA 491 [Declaration of Carolynn Simonson].) Plaintiff has also filed numerous declarations on his own behalf, attempting to explain various actions he has taken (including small claims cases he has litigated) as well as regarding an arbitration against his former attorney for allegedly improper fees. (E.g., ROA 481, 492, 519.) Many of these declarations attach various documents without exhibit lists, proper explanation, or authentication. Needless to say, Plaintiff's approach to this litigation has made it untenable, unmanageable, and an abuse of the court system. Even so, the court considers each of the plethora of filings before the court in chronological order.

- USD's Motion to Quash Subpoena (ROA 78)

This motion seeks to quash Plaintiff's 23rd subpoena seeking records from the National Council for

Accreditation of Teacher Education ("NCATE"). This information is not reasonably calculated to lead to the discovery of admissible evidence in this matter. The motion is unopposed and is granted. USD's request for \$4,390 in sanctions is granted.

- Plaintiff's Motion to Compel Discovery from Google LLC (ROA 83)

This motion seeks to compel discovery from non-party Google LLC. Plaintiff is requesting that Google confirm that his gmail account is not being remotely accessed. However, Plaintiff's motion is procedurally and substantively defective. Plaintiff failed to provide a separate statement or meet and confer in good faith. Plaintiff has also failed to show good cause under Code of Civil Procedure section 2025.450(b)(1) or that the request is not overbroad. The motion is denied and Google LLC's request for sanctions in the amount of \$5,000 is granted.

- Michael S. Dell's Motion to Quash Subpoena (ROA 84)

Non-party Michael S. Dell has moved to quash Plaintiff's subpoena and requested a protective order. The court finds that no valid service was effectuated, the deposition officer was improper, and that the requested documents are irrelevant to the underlying case, among other things. The motion is unopposed and is granted in full. No sanctions were requested.

- Plaintiff's Motion to Compel Discovery from Meta Platforms, Inc. (ROA 92)

This motion seeks to compel certain unidentified documents from Meta Platforms, Inc. ("Meta"). First, as non-party Meta points out, no motion papers or separate statement were ever filed in support of the notice of motion. Second, Plaintiff has also failed to show good cause under Code of Civil Procedure section 2025.450(b)(1) or that the request is not overbroad. The motion is denied and Meta's request for sanctions is granted in the amount of \$4,520. (ROA 512, Declaration of Kim Y. Ng, ¶ 6 [stating that 8 hours were spent on opposing the motion at the rate of \$565 per hour].)

- USD's Motion to Quash Subpoena to California Commission on Teacher Credentialing (ROA 108)

This motion seeks to quash Plaintiff's 82nd subpoena seeking records from the California Commission on Teacher Credentialing. Among other improprieties, there is no evidence of proper service, the deposition officer was improper, and the information is not reasonably calculated to lead to the discovery of admissible evidence in this matter. The unopposed motion is granted. USD is granted \$800 in sanctions.

- Plaintiff's Motion to Compel Discovery from National University President Randy Frisch (ROA 143)

No papers were filed with this motion. Further, pursuing any discovery after the March 14, 2022 order required specific approval from this court, which was not obtained. The motion is denied.

- Plaintiff's Motion for Change of Venue (ROA 209)

Venue is appropriate "in the county where the defendants or some of them reside at the commencement of the action." (Code Civ. Proc., § 395.) The Court may change the place of trial under specific circumstances for civil litigation listed in the Code, none of which is present in this case: "(a) when the court designated in the complaint is not the proper court; (b) when there is reason to believe that an impartial trial cannot be had therein; (c) when the convenience of witnesses and the ends of justice

would be promoted by the change; [or] (d) when from any cause there is no judge of the court qualified to act. . . ." (Code Civ. Proc., § 397.) Plaintiff has provided no persuasive reason for changing the venue from San Diego to Riverside at this stage in the litigation. The parties, including Plaintiff, waived jury trial at the December 6, 2021 case management conference (ROA 48), thus even accepting Plaintiff's arguments at face value there is no risk of a biased jury pool. Plaintiff has not presented any evidence of this court's bias and the court finds none. Transfer of venue is denied.

- USD's Motion for Summary Judgment

The Court has reviewed and considered all the filings in this case related to the motion for the summary judgment through the date of the hearing on July 15, 2022, including the full deposition of Dr. Reyes Quezada.

The moving party bears the initial burden of production to make a prima facie showing that there are no triable issues of material fact. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850.) A prima facie showing is one that is sufficient to support the position of the party in question; "no more is called for." (*Id.* at 851.) The moving party must show that the undisputed facts, when applied to the issues framed by the pleadings, entitle the moving party to judgment. (*Juge v. County of Sacramento* (1993) 12 Cal.App.4th 59, 66.) Where a defendant seeks summary judgment or adjudication, it must show that the plaintiff cannot establish one or more of the elements of the causes of action or that there is a complete defense to the claims. (*Aguilar, supra*, 25 Cal.4th at 850-51.) Courts should "liberally construe plaintiff's evidentiary submissions and strictly scrutinize defendant's [] evidence, in order to resolve any evidentiary doubts or ambiguities in plaintiff's favor." (*Johnson v. American Standard, Inc.* (2008) 43 Cal.4th 56, 64.)

An opposing party's failure to file a separate statement of disputed facts constitutes "a sufficient ground, in the court's discretion, for granting the motion." (Code Civ. Proc. § 437c(b)(3).) "Without a separate statement of undisputed facts with references to supporting evidence in the form of affidavits or declarations, it is impossible for the plaintiff to demonstrate the existence of disputed facts." (*Lewis v. County of Sacramento* (2001) 93 Cal.App.4th 107, 116.)

Plaintiff's response to USD's motion for summary judgment is procedurally and substantively inadequate. Plaintiff provides no separate statement and merely attaches an unexplained and unauthenticated group of documents that appear to be largely irrelevant to the motion. Declarations accompanying the motion also appear irrelevant. Nor does Plaintiff provide any legal argument in response to USD's motion and instead merely restates his own theory of the case. On these grounds alone, the court grants summary judgment in favor of USD, but USD also makes persuasive legal arguments that would independently require granting the motion.

Plaintiff alleges the following causes of action: (1) breach of contract; (2) breach of the covenant of good faith and fair dealing; (3) fraud in the inducement; (4) negligent misrepresentation; (5) unjust enrichment; (6) violations of California Business and Professions Code section 17200; (7) violations of the Consumer Legal Remedies Act, California Civil Code section 1750 et seq.; and (8) untrue and misleading advertising in violation of California Business Professions Code section 17500.

First, the educational malfeasance doctrine bars Plaintiff's first, second, third, fourth, and fifth causes of action. It is clear from the record that Plaintiff was provided with written and verbal feedback regarding his performance in the program and given numerous opportunities to improve. (See, e.g., ROA 213, Exs. 8, 10-15, 17, 18, 20, 24, 26, and 27.) Plaintiff has not provided competent evidence that USD's procedures and his ultimate dismissal departed from accepted academic norms. (See *Lachtman v. Regents of the University of California* (2007) 158 Cal.Ap.4th 187, 206; *Peter W. v. San Francisco Unified Sch. Dist.* (1976) 60 Cal.App.3d 814, 824-825.)

Second, Plaintiff has not identified a contract with definite and enforceable terms. Plaintiff alleges USD had "a contract with Plaintiff to pay for tuition and perform program duties in exchange for [USD's] promise to provide educational services to him in good faith, advance his academic excellence, and prepare him to be a leader who is dedicated to ethical conduct and compassionate service." (Compl. ¶ 26.) Plaintiff relies upon a list of vague "promises and representations regarding [USD's] mission statement, vision statement, and core values." (Compl. ¶ 27.) But Plaintiff presents no evidence of mutual assent (or even consideration) to enforce these alleged promises to him. Absent any evidence of a definite promise, Plaintiff cannot rely on vague, aspirational promises made in mission and vision statements to prevent his contract-based claims from being adjudicated. Nor do USD's various advertising materials or publications establish any implied contract. (See *Regents of the Univ. of Cal. v. Superior Court* (2015) 193 Cal.Rptr.3d 447, 467, rev'd on other grounds by *Regents of Univ. of Cal. v. Superior Court* (2018) 4 Cal.5th 607 [general declarations in university publication did not give rise to contract].) For these independent reasons, Plaintiff's first, second, and fifth causes of action fail. (E.g., *Racine & Laramie, Ltd. v. Department of Parks & Recreation* (1992) 11 Cal.App.4th 1026, 1031 ["t]he implied covenant of good faith and fair dealing rests upon the existence of some specific contractual obligation."].)

Plaintiff's third and fourth causes of action alleging fraud and negligent misrepresentation are similarly deficient. There is no evidence of false or misleading statements made by USD. Further, Plaintiff has not demonstrated any reliance on USD's advertising statements. Rather, it appears that Plaintiff chose the teaching program at USD because CCA Principal had told Plaintiff "he could help me get a teaching position at [CCA]." (ROA 213, Ratekin Deposition, pp. 72:8-74:7.)

Finally, with respect to Plaintiff's statutory claims, there is no evidence that USD's statements were false or misleading or that such statements resulted in his injury, sufficient to give rise to liability under either the UCL or FAL. Additionally, the CLRA does not cover educational services as such provided by USD. (Civ. Code § 1770(a) ["The following unfair methods of competition . . . are unlawful . . ."].) In any case, Plaintiff failed to submit the required pre-filing request to cure letter to USD regarding his CLRA claim. (See Civ. Code § 1782.)

The motion for summary judgment is granted in full.

- Plaintiff's Motion to Enforce Subpoena against the National Freedom Information Act Office (ROA 285)

Plaintiff does not submit any evidence that he is being monitored and, in any case, there is no connection between drones allegedly flying near his home in Washington and his lawsuit against USD concerning his 2019 dismissal. Further, pursuing any discovery after the March 14, 2022 order required specific approval from this court, which was not obtained. The motion is denied.

- Plaintiff's Motion to Enforce Subpoena against "University of San Diego Student Emergency Contact

Jennifer Lynn Ratekin" (ROA 314)

To the degree that this motion is intelligible, the subpoena at issue does not appear to be reasonably calculated to lead to admissible evidence in this case. Further, pursuing any discovery after the March 14, 2022 order required specific approval from this court, which was not obtained. The motion is denied.

- Plaintiff's Motion to Enforce Subpoena against Scripps Ranch High School Athletic Director, Todd Wilson (ROA 357)

Any discovery after the March 14, 2022 order required specific approval from this court, which was not obtained. This motion is denied.

- Plaintiff's Motion to Enforce Subpoena against Special Education Teacher Julie Schilie of Battleground Public Schools (ROA 359)

Any discovery after the March 14, 2022 order required specific approval from this Court, which was not obtained. This motion is denied.

- Plaintiff's Ex Parte Application for Monetary Sanctions for Failure to Produce Documents or Respond in Good Faith to Subpoenas (ROA 360)

Plaintiff sought, by ex parte application, sanctions of \$2,750 against San Dieguito High School District for failing to produce documents, \$1,250 against the Poway Unified School District, \$250 against the Grossmont Union High School District, \$500 against the Pacific Polo Water Polo Club, \$250 against USD, \$250 against Sean Finnigan, \$250 against the Chula Vista Learning Community Charter School, \$250 against USA Water Polo, and \$250 against Ventura Unified School District. At the June 7, 2022 ex parte hearing, the court advanced all hearings and motions to be heard on July 15, 2022. Plaintiff did not re-file or re-serve any noticed motion for sanctions as also directed at the June 7, 2022 hearing. Therefore, a request for sanctions against these parties is denied. In any case, the court's March 14, 2022 order prevented any further discovery from taking place both against USD and other parties unless Plaintiff sought leave from the court and explained why it was necessary to obtain such discovery. To date, the court has denied all requests for relief from the protective order. Moreover, several of the subpoenas referenced in Plaintiff's ex parte application were even served improperly after the court's March 14, 2022 order. This request is denied.

- Plaintiff's Motion to Disqualify Counsel (ROA 432)

The motion is generally unintelligible, but to the degree that Plaintiff has requested disqualification of Attorney Matthew Mushamel, the motion is denied.

- USD's Motion for Terminating Sanctions and Prefiling Order Declaring Plaintiff a Vexatious Litigant (ROA 372)

Although the Court finds that there are likely sufficient grounds to grant terminating sanctions, USD's request is moot in light of this court's ruling on the motion for summary judgment. However, the court grants the request for a pre-filing order declaring Plaintiff a vexatious litigant. A court may "enter a pre-filing order which prohibits a vexatious litigant from filing any new litigation in the courts of this state in propria persona without first obtaining leave of the presiding justice or presiding judge of the court where the litigation is proposed to be filed." (Code Civ. Proc., § 391.7(a).) Once the order is entered, any future

litigation brought by Plaintiff in propria persona must be approved with the Presiding Judge, who may permit Plaintiff's litigation to continue only if it appears to have merit and is not filed for the purpose of harassment or delay. (See Code Civ. Proc. §397.1(b); *Wolfgram v. Wells Fargo Bank* (1997) 53 Cal.App.4th 43, 60 ["The prefiling order component of the vexatious litigant statute is a necessary method of curbing those for whom litigation has become a game."].)

A vexatious litigant is defined to include any person who, "while acting in propria persona, repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary delay." (Code Civ. Proc., § 391(b)(3).)

Plaintiff has repeatedly abused the litigation and discovery process throughout this case by, among other things, repeatedly violating this court's March 14, 2022 order, serving voluminous and harassing discovery on non-parties, and filing repeated baseless ex parte applications. It is apparent to this court that Plaintiff will not be dissuaded from continuing his abusive tactics. Accordingly, pursuant to Code of Civil Procedure section 391.7(a), Plaintiff is prohibited from filing any new litigation in the courts of this state *in propia persona* without first obtaining leave of the presiding justice or presiding judge of the court where the litigation is proposed to be filed. Disobedience of this order by Plaintiff may be punished as contempt of court. The clerk will provide a copy of the order to the Judicial Council pursuant to Code of Civil Procedure section 391.7(f).

USD is directed to prepare a formal order.

The Settlement Conference (Civil) set for 08/18/2022 at 1:30 P.M. is vacated.

The Trial Readiness Conference (Civil) set for 10/21/2022 at 10:15 A.M. is vacated.

The Civil Court Trial set for 11/04/2022 at 08:30 A.M. is vacated.

**IT IS SO ORDERED.**

*Eddie C. Sturgeon*

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Judge Eddie C Sturgeon

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
CENTRAL**

**MINUTE ORDER**

DATE: 07/15/2022

TIME: 02:00:00 PM

DEPT: C-67

JUDICIAL OFFICER PRESIDING: Eddie C Sturgeon

CLERK: Stephanie Goodrich

REPORTER/ERM: Kasey Mobley CSR# 13407

BAILIFF/COURT ATTENDANT: M. Micone

CASE NO: **37-2020-00040983-CU-BC-CTL** CASE INIT.DATE: 11/09/2020

CASE TITLE: **RATEKIN vs UNIVERSITY OF SAN DIEGO [IMAGED]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Breach of Contract/Warranty

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**EVENT TYPE:** Discovery Hearing

MOVING PARTY: Nicholas Ratekin

CAUSAL DOCUMENT/DATE FILED: Motion to Compel Discovery, 03/25/2022

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**EVENT TYPE:** Discovery Hearing

MOVING PARTY: Nicholas Ratekin

CAUSAL DOCUMENT/DATE FILED: Motion - Other TO ENFORCE SUBPOENA, 04/28/2022

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**EVENT TYPE:** Discovery Hearing

Additional events listed on last page.

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**APPEARANCES**

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Nicholas Ratekin, self-represented Plaintiff, present.

Joanne Alnajjar Buser, counsel, present for Defendant(s).

Matthew Mushamel, counsel, present for Defendant(s).

Thea Percival, counsel for interested party, Google is present via remote video appearance.

Michael Bleicher, counsel for interested party, Meta is present via remote video appearance.

Thomas Placido, counsel for interested party, Mr. Dell is present via remote video appearance.

Michael Paskowitz, counsel, present for San Dieguito Unified School District

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The Court hears oral argument and confirms the tentative ruling as follows:

On June 7, 2022, the court advanced all motions and hearings to July 15, 2022 to be heard concurrently. (ROA 431.) After reviewing all the papers in this case, the Court rules as follows:



The University of San Diego's ("USD") Motion to Quash Subpoena to National Counsel for Accreditation of Teacher Education (ROA 78), and Motion to Quash Subpoena to the California Commission on Teacher Credentialing (ROA 108) are **GRANTED**. Sanctions are awarded to USD in the amount of \$5,190.00 for the motions to quash subpoenas, and \$3,315.00 in the sanctions reserved at the March 14, 2022 hearing, for a total of \$8,505.00.

Plaintiff Nicholas Ratekin's Motion to Compel Discovery from Google, Inc. (ROA 83), Motion to Compel Discovery from META/Facebook, Inc. (ROA 92), Motion to Compel Discovery from National University President Randy Frisch (ROA 143), Motion for Change of Venue (ROA 209), Motion to Enforce Subpoena against the National Freedom of Information Act Office (ROA 285), Motion to Enforce Subpoena against "University of San Diego Student Emergency Contact Jennifer Lynn Ratekin" (ROA 314), Motion to Enforce Subpoena against Scripps ranch High School Athletic Director, Todd Wilson (ROA 357), Motion to Enforce Subpoena against Special Education Teacher Julie Schilie (ROA 359), Motion to Disqualify Counsel (ROA 432), and Ex Parte Application for Sanctions (ROA 360) are **DENIED**. Sanctions are awarded to Non-Party Google LLC as requested in the amount of \$5,000.00 (ROA 510, Declaration of Thea E. Percial, ¶¶ 7-8) and to Non-Party Meta Platforms, Inc. in the amount of \$4,520.00 (ROA 512, Declaration of Kim Y. Ng, ¶ 6).

Non-Party Michael S. Dell's Motion to Quash Subpoena (ROA 84) is **GRANTED**. No sanctions were requested.

This case was filed on November 9, 2020. Plaintiff's attorney moved to be relieved as counsel in September 2021. After the court granted the motion to be relieved, Plaintiff began to represent himself. Thereafter, Plaintiff began serving an extreme amount of discovery (e.g., over 100 subpoenas) on a broad range of parties, including local, state, and federal officials, agencies, and educational institutions as well as various individuals.

On March 14, 2022, in response to USD's motion for a protective order and a motion to quash this court ordered an end to Plaintiff's discovery unless the court's permission was obtained in advance. This order did not stop Plaintiff, who chose to take a narrow view of the order and believed that it did not prevent him from pursuing discovery requests that had been propounded prior to the order. But that was not the court's intent. The court's order was express that no further discovery was permitted absent further court authorization regardless of when it was initially served. Otherwise, the court would not have achieved the purpose of its order-to prevent tens of parties from filing and scheduling motions to quash. Since that order, Plaintiff has continuously filed ex parte applications requesting relief from the protective order. The court denied those requests. Those denials had only one exception: on June 23, 2022, the court granted Plaintiff's request to take the deposition of USD's former Student Teaching Placement Coordinator Serena Pariser from June 23, 2022 to July 8, 2022. Any supplemental filings based on that deposition were to be filed by July 12, 2022. No supplemental filings appear on the register of actions.

Since the ex parte hearing on June 7, 2022, Plaintiff has filed more than 40 declarations in support of his various motions and oppositions containing wholly irrelevant information. For example, numerous declarations are filed by Plaintiff's grandfather and other family members regarding the ownership of a fax machine that was used to transmit subpoenas from December 2021 to May 19, 2021 and that those subpoenas were sent independent of Plaintiff. (E.g., ROA 477 [Declaration of Ron Ratekin].) Other declarations come from Plaintiff's past water polo teammates, coaches, and other acquaintances that speak to Plaintiff's water polo acumen, academic performance, and general character but provide nothing of relevance as to this case. (ROA 494 [Declaration of Mike Flannagan]; ROA 495 [Declaration

of Deborah Clukey]; ROA 500 [Declaration of Travis Knight]; ROA 505 [Declaration of Austin Fennacy]; ROA 520 [Declaration of Rob Knight]; ROA 522 [Declaration of Randall Burgess]; ROA 538 [Declaration of Lazlo Gyori]; ROA 539 [Declaration of Kent Houston].) Still other declarations are from individuals of unknown relation to this case stating that they viewed a Facebook page titled "University of San Diego Faces Cancel Culture Lawsuit" and that it is their understanding that Plaintiff was "disenrolled" from USD "based on his political beliefs and support of President Donald J. Trump." (E.g., ROA 488 [Declaration of Jim Simonson], ROA 491 [Declaration ofCarolynn Simonson].) Plaintiff has also filed numerous declarations on his own behalf, attempting to explain various actions he has taken (including small claims cases he has litigated) as well as regarding an arbitration against his former attorney for allegedly improper fees. (E.g., ROA 481, 492, 519.) Many of these declarations attach various documents without exhibit lists, proper explanation, or authentication. Needless to say, Plaintiff's approach to this litigation has made it untenable, unmanageable, and an abuse of the court system. Even so, the court considers each of the plethora of filings before the court in chronological order.

1. USD's Motion to Quash Subpoena (ROA 78)

This motion seeks to quash Plaintiff's 23rd subpoena seeking records from the National Council for Accreditation of Teacher Education ("NCATE"). This information is not reasonably calculated to lead to the discovery of admissible evidence in this matter. The motion is unopposed and is **granted**. USD's request for \$4,390 in sanctions is **granted**.

2. Plaintiff's Motion to Compel Discovery from Google LLC (ROA 83)

This motion seeks to compel discovery from non-party Google LLC. Plaintiff is requesting that Google confirm that his gmail account is not being remotely accessed. However, Plaintiff's motion is procedurally and substantively defective. Plaintiff failed to provide a separate statement or meet and confer in good faith. Plaintiff has also failed to show good cause under Code of Civil Procedure section 2025.450(b)(1) or that the request is not overbroad. The motion is **denied** and Google LLC's request for sanctions in the amount of \$5,000 is **granted**.

3. Michael S. Dell's Motion to Quash Subpoena (ROA 84)

Non-party Michael S. Dell has moved to quash Plaintiff's subpoena and requested a protective order. The court finds that no valid service was effectuated, the deposition officer was improper, and that the requested documents are irrelevant to the underlying case, among other things. The motion is unopposed and is **granted** in full. No sanctions were requested.

4. Plaintiff's Motion to Compel Discovery from Meta Platforms, Inc. (ROA 92)

This motion seeks to compel certain unidentified documents from Meta Platforms, Inc. ("Meta"). First, as non-party Meta points out, no motion papers or separate statement were ever filed in support of the notice of motion. Second, Plaintiff has also failed to show good cause under Code of Civil Procedure section 2025.450(b)(1) or that the request is not overbroad. The motion is **denied** and Meta's request for sanctions is **granted** in the amount of \$4,520. (ROA 512, Declaration of Kim Y. Ng, ¶ 6 [stating that 8 hours were spent on opposing the motion at the rate of \$565 per hour].)

5. USD's Motion to Quash Subpoena to California Commission on Teacher Credentialing (ROA 108)

This motion seeks to quash Plaintiff's 82nd subpoena seeking records from the California Commission

on Teacher Credentialing. Among other improprieties, there is no evidence of proper service, the deposition officer was improper, and the information is not reasonably calculated to lead to the discovery of admissible evidence in this matter. The unopposed motion is **granted**. USD is **granted** \$800 in sanctions.

6. Plaintiff's Motion to Compel Discovery from National University President Randy Frisch (ROA 143)

No papers were filed with this motion. Further, pursuing any discovery after the March 14, 2022 order required specific approval from this Court, which was not obtained. The motion is **denied**.

7. Plaintiff's Motion for Change of Venue (ROA 209)

Venue is appropriate "in the county where the defendants or some of them reside at the commencement of the action." (Code Civ. Proc., § 395.) The Court may change the place of trial under specific circumstances for civil litigation listed in the Code, none of which is present in this case: "(a) when the court designated in the complaint is not the proper court; (b) when there is reason to believe that an impartial trial cannot be had therein; (c) when the convenience of witnesses and the ends of justice would be promoted by the change; [or] (d) when from any cause there is no judge of the court qualified to act. . . ." (Code Civ. Proc., § 397.) Plaintiff has provided no persuasive reason for changing the venue from San Diego to Riverside at this stage in the litigation. The parties, including Plaintiff, waived jury trial at the December 6, 2021 case management conference (ROA 48), thus even accepting Plaintiff's arguments at face value there is no risk of a biased jury pool. Plaintiff has not presented any evidence of this court's bias and the court finds none. Transfer of venue is **denied**.

9. Plaintiff's Motion to Enforce Subpoena against the National Freedom Information Act Office (ROA 285)

Plaintiff does not submit any evidence that he is being monitored and, in any case, there is no connection between drones allegedly flying near his home in Washington and his lawsuit against USD concerning his 2019 dismissal. Further, pursuing any discovery after the March 14, 2022 order required specific approval from this court, which was not obtained. The motion is **denied**.

10. Plaintiff's Motion to Enforce Subpoena against "University of San Diego Student Emergency Contact Jennifer Lynn Ratekin" (ROA 314)

To the degree that this motion is intelligible, the subpoena at issue does not appear to be reasonably calculated to lead to admissible evidence in this case. Further, pursuing any discovery after the March 14, 2022 order required specific approval from this Court, which was not obtained. The motion is **denied**.

11. Plaintiff's Motion to Enforce Subpoena against Scripps Ranch High School Athletic Director, Todd Wilson (ROA 357)

Any discovery after the March 14, 2022 order required specific approval from this court, which was not obtained. This motion is **denied**.

12. Plaintiff's Motion to Enforce Subpoena against Special Education Teacher Julie Schilie of Battleground Public Schools (ROA 359)

Any discovery after the March 14, 2022 order required specific approval from this court, which was not obtained. This motion is **denied**.

13. Plaintiff's Ex Parte Application for Monetary Sanctions for Failure to Produce Documents or Respond in Good Faith to Subpoenas (ROA 360)

Plaintiff sought, by ex parte application, sanctions of \$2,750 against San Dieguito High School District for failing to produce documents, \$1,250 against the Poway Unified School District, \$250 against the Grossmont Union High School District, \$500 against the Pacific Polo Water Polo Club, \$250 against USD, \$250 against Sean Finnigan, \$250 against the Chula Vista Learning Community Charter School, \$250 against USA Water Polo, and \$250 against Ventura Unified School District. At the June 7, 2022 ex parte hearing, the court advanced all hearings and motions to be heard on July 15, 2022. Plaintiff did not re-file or re-serve any noticed motion for sanctions as also directed at the June 7, 2022 hearing. Therefore, a request for sanctions against these parties is denied. In any case, the court's March 14, 2022 order prevented any further discovery from taking place both against USD and other parties unless Plaintiff sought leave from the court and explained why it was necessary to obtain such discovery. To date, the court has denied all requests for relief from the protective order. Moreover, several of the subpoenas referenced in Plaintiff's ex parte application were even served improperly after the court's March 14, 2022 order. This request is **denied**.

14. Plaintiff's Motion to Disqualify Counsel (ROA 432)

The motion is generally unintelligible, but to the degree that Plaintiff has requested disqualification of Attorney Matthew Mushamel, the motion is **denied**.

As discussed with the parties, the Court takes the 3 motions under submission; USD's Motion for terminating sanctions, Motion to Deem Plaintiff a Vexatious Litigant and Motion for Summary Judgment.

**IT IS SO ORDERED.**

*Eddie C. Sturgeon*

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Judge Eddie C Sturgeon

ADDITIONAL EVENTS:

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**EVENT TYPE:** Discovery Hearing

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**EVENT TYPE:** Discovery Hearing  
MOVING PARTY: Nicholas Ratekin  
CAUSAL DOCUMENT/DATE FILED: Motion - Other TO ENFORCE SUBPOENA, 05/16/2022

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**EVENT TYPE:** Motion to Quash (Civil)  
MOVING PARTY: University of San Diego  
CAUSAL DOCUMENT/DATE FILED: Motion to Quash Subpoena, 02/17/2022

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**EVENT TYPE:** Motion Hearing (Civil)  
MOVING PARTY: Nicholas Ratekin  
CAUSAL DOCUMENT/DATE FILED: Motion for Change of Venue, 04/27/2022

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**EVENT TYPE:** Discovery Hearing  
MOVING PARTY: Nicholas Ratekin  
CAUSAL DOCUMENT/DATE FILED: Motion - Other TO ENFORCE SUBPOENA, 05/31/2022

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**EVENT TYPE:** Motion Hearing (Civil)  
MOVING PARTY: Nicholas Ratekin  
CAUSAL DOCUMENT/DATE FILED: Motion - Other TO DISQUALIFY COUNSEL, 06/03/2022

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**EVENT TYPE:** Discovery Hearing  
MOVING PARTY: Michael S Dell  
CAUSAL DOCUMENT/DATE FILED: Motion to Quash Subpoena, 02/23/2022

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**EVENT TYPE:** Motion Hearing (Civil)

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**EVENT TYPE:** Discovery Hearing

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**EVENT TYPE:** Discovery Hearing  
MOVING PARTY: Nicholas Ratekin  
CAUSAL DOCUMENT/DATE FILED: Motion - Other to Enforce Subpoena, 06/01/2022

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**EVENT TYPE:** Motion Hearing (Civil)  
MOVING PARTY: Nicholas Ratekin  
CAUSAL DOCUMENT/DATE FILED: Motion - Other TO DISQUALIFY COUNSEL, 06/03/2022

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