

BRIGGS LAW CORPORATION [FILE: 2004.11]
Cory J. Briggs (SBN 176284)
Nora Pasin (SBN 315730)
99 East "C" Street, Suite 203
Upland, CA 91786
Telephone: 909-949-7115

Attorneys for Plaintiff and Petitioner Arturo Castaños

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
02/01/2024 at 11:23:52 AM
Clerk of the Superior Court
By Regina Chanez, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO – CENTRAL DIVISION

ARTURO CASTAÑARES,

Plaintiff and Petitioner,

vs.

COUNTY OF SAN DIEGO; SAN DIEGO
COUNTY SHERIFF'S DEPARTMENT; and DOES
1 through 100,

Defendants and Respondents.

37-2024-00004781-CU-MC-CTL

CASE NO. _____

**VERIFIED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF AND PETITION FOR WRIT OF
MANDATE UNDER THE CALIFORNIA
PUBLIC RECORDS ACT AND OTHER
LAWS**

Plaintiff and Petitioner ARTURO CASTAÑARES ("PLAINTIFF") alleges as follows:

Introductory Statement

1. PLAINTIFF brings this lawsuit under the California Public Records Act ("CPRA"), as well as the California Constitution, the common law, and other applicable legal authorities. PLAINTIFF made a lawful CPRA request to Defendants/Respondents, but they have illegally failed to disclose the responsive public records.

Parties

2. PLAINTIFF is a journalist and the publisher of *La Prensa San Diego*. In this capacity, one of his primary roles as a government "watchdog" is ensuring that public agencies comply with all applicable laws aimed at promoting transparency and accountability in government.

3. Defendants/Respondents COUNTY OF SAN DIEGO (“COUNTY”) and SAN DIEGO COUNTY SHERIFF’S DEPARTMENT (“SDCSD”) are each a “local agency” within the meaning of Government Code Section 7920.510. SDCSD is a department operating under COUNTY’s umbrella.

4. The true names and capacities of the Defendants/Respondents identified as DOES 1 through 100 are unknown to PLAINTIFF, who will seek the Court's permission to amend this pleading in order to allege the true names and capacities as soon as they are ascertained. PLAINTIFF is informed and believes and on that basis alleges that each of the fictitiously named Defendants/Respondents 1 through 100 has jurisdiction by law over one or more aspects of the public records that are the subject of this lawsuit or has some other cognizable interest in the public records.

5. PLAINTIFF is informed and believes and on that basis alleges that, at all times stated in this pleading, each Defendant/Respondent was the agent, servant, or employee of every other Defendant/Respondent and was, in doing the things alleged in this pleading, acting within the scope of said agency, servitude, or employment and with the full knowledge or subsequent ratification of his/her/its principals, masters, and employers. Alternatively, in doing the things alleged in this pleading, each Defendant/Respondent was acting alone and solely to further his/her/its own interests.

Jurisdiction and Venue

6. The Court has jurisdiction over this lawsuit pursuant to Government Code Section 7923.000 *et seq.*; Code of Civil Procedure Sections 526a, 1060 *et seq.*, and 1084 *et seq.*; the California Constitution, and the common law, among other provisions of law.

7. Venue in this Court is proper because the obligations, liabilities, and violations of law alleged in this pleading occurred in the County of San Diego in the State of California.

Background Allegations

8. This lawsuit is based on the following:

A. On or about January 2, 2024, PLAINTIFF submitted a written request for certain public records – namely, booking photos of Jesus Cardenas and Andrea Cardenas – to Defendants/Respondents (the “CPRA Request”).

B. On that same day, Defendants/Respondents denied PLAINTIFF's request.

1 C. A true and correct copy of the CPRA Request and the response to it is attached
2 to this pleading as Exhibit "A."

3 D. PLAINTIFF is informed and believes and on that basis alleges as follows:

4 1. Prior to the commencement of this lawsuit (at a minimum),
5 Defendants/Respondents did not do a thorough search for all public records responsive to the CPRA
6 Request, including but not limited to failing to search for responsive public records maintained on the
7 personal accounts and/or devices of public officials.

8 2. Prior to the commencement of this lawsuit (at a minimum),
9 Defendants/Respondents had not produced all public records responsive to the CPRA Request and at
10 least one responsive public record exists but has not been disclosed.

11 3. Prior to the commencement of this lawsuit (at a minimum),
12 Defendants/Respondents did nothing or not enough to assist PLAINTIFF in submitting a focused and
13 effective request that would enable PLAINTIFF to obtain those responsive records that are not exempt
14 from disclosure.

15 4. To the extent that any of the responsive records and/or information therein
16 was not disclosed based on one or more CPRA exemptions prior to the commencement of this lawsuit
17 (at a minimum), Defendants/Respondents either (i) did not identify the exemption(s) being invoked to
18 justify non-disclosure of the record and/or information, (ii) did not identify the person responsible for
19 making the exemption determination, (iii) erroneously determined that an exemption applied to the
20 responsive record(s) and/or information, (iv) withheld more information than warranted based on the
21 asserted exemption(s), or (v) committed some combination of the foregoing legal errors.

22 5. Defendants/Respondents intentionally withheld the public records
23 responsive to the CPRA Request prior to the commencement of this lawsuit.

24 9. PLAINTIFF and other members of the public have been harmed as a result of
25 Defendants'/Respondents' failure to comply promptly, accurately, properly, and in full with all open-
26 government laws applicable to the CPRA Request. By way of example and not limitation, the legal
27 rights of PLAINTIFF to access information concerning the conduct of the people's business were being
28 violated and might continue to be violated.

1 **FIRST CAUSE OF ACTION:**
2 **Violation of Government Code Section 7922.525**
3 (Against All Defendants/Respondents)

4 10. The preceding allegations in this pleading are fully incorporated into this paragraph.

5 11. Defendants/Respondents violated Government Code Section 7922.525 with respect to
6 the CPRA Request because they denied PLAINTIFF the right to inspect the public record(s) responsive
7 to the CPRA Request prior to the commencement of this lawsuit.

8 **SECOND CAUSE OF ACTION:**
9 **Violation of Government Code Section 7922.530**
10 (Against All Defendants/Respondents)

11 12. The preceding allegations in this pleading are fully incorporated into this paragraph.

12 13. Defendants/Respondents violated Government Code Section 7922.530 with respect to
13 the CPRA Request because it reasonably described at least one identifiable public record that was not
14 exempt from disclosure but Defendants/Respondents did not make any such public record promptly
15 available to PLAINTIFF prior to the commencement of this lawsuit.

16 **THIRD CAUSE OF ACTION:**
17 **Violation of Government Code Section 7922.600**
18 (Against All Defendants/Respondents)

19 14. The preceding allegations in this pleading are fully incorporated into this paragraph.

20 15. Defendants/Respondents violated Government Code Section 7922.600 with respect to
21 the CPRA Request because they did not do any of the following: (1) assist PLAINTIFF to identify
22 records and information that are responsive to the CPRA Request or to the purpose of the CPRA
23 Request; (2) describe the information technology and physical location in which responsive records
24 exist; or (3) provide suggestions for overcoming any practical basis for denying access to the records
25 or information sought.

26 **FOURTH CAUSE OF ACTION:**
27 **Declaratory Relief under Code of Civil Procedure Section 1060 *et seq.***
28 (Against All Defendants/Respondents)

29 16. The preceding allegations in this pleading are fully incorporated into this paragraph.

30 17. PLAINTIFF is informed and believes and on that basis alleges that an actual controversy
31 exists between PLAINTIFF, on the one hand, and Defendants/Respondents, on the other hand,
32 concerning their respective rights and duties under the CPRA, the California Constitution, the common

1 law, and other applicable legal authorities. As alleged in this pleading, PLAINTIFF contends that
2 Defendants/Respondents failed to comply promptly and in full with each of the open-government laws
3 applicable to the CPRA Request as set forth in the preceding causes of action; whereas
4 Defendants/Respondents dispute PLAINTIFF's contention.

5 18. PLAINTIFF desires a judicial determination and declaration as to whether Defendants/
6 Respondents fully complied with all open-government laws applicable to the CPRA Request.

7 **Prayer**

8 FOR ALL THESE REASONS, PLAINTIFF respectfully prays for the following relief against
9 all Defendants/Respondents (and any and all other parties who may oppose PLAINTIFF in this lawsuit)
10 jointly and severally:

11 A. *On the First, Second, and Third Causes of Action:*

12 1. A judgment determining or declaring that Defendants/Respondents did not
13 promptly and fully comply and/or have not promptly and fully complied with the CPRA, the California
14 Constitution, the common law, and/or other applicable laws with regard to the CPRA Request;

15 2. A writ of mandate ordering Defendants/Respondents to promptly and fully
16 comply with the CPRA, the California Constitution, the common law, and all other applicable laws with
17 regard to the CPRA Request to the extent they did not do so prior to a determination on the merits of
18 this lawsuit; and

19 3. Preliminary and permanent injunctive relief directing Defendants/Respondents
20 to fully respond to PLAINTIFF's requests and to permit PLAINTIFF to inspect and obtain copies of all
21 responsive public records (or portions thereof as allowed by law) to the extent they did not do so prior
22 to a determination on the merits of this lawsuit.

23 B. *On the Fifth Cause of Action:*

24 1. An order determining and declaring that the failure of Defendants/Respondents
25 to disclose all public records (or portions thereof as allowed by law) responsive to the CPRA Request
26 and to permit PLAINTIFF to inspect and obtain copies of such records does not comply with the CPRA,
27 the California Constitution, the common law, and/or other applicable laws; and
28

1 2. Preliminary and permanent injunctive relief directing Defendants/Respondents
2 to respond to and disclose all public records (or portions thereof as allowed by law) responsive to the
3 CPRA Request and to permit PLAINTIFF to inspect and obtain copies of such records.

4 C. *On All Causes of Action:*

5 1. An order providing for the Court's continuing jurisdiction over this lawsuit in
6 order to ensure that Defendants/Respondents fully comply with the CPRA, the California Constitution,
7 the common law, and/or other applicable laws;

8 2. All attorney fees and other legal expenses incurred by PLAINTIFF in connection
9 with this lawsuit; and

10 3. Any further relief that this Court may deem appropriate.

11
12 Date: January 3, 2024.

Respectfully submitted,

BRIGGS LAW CORPORATION

13
14
15 By:


Cory J. Briggs

Attorneys for Plaintiff and Petitioner Arturo Castañares

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION
FOR WRIT OF MANDATE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND
OTHER LAWS**

Exhibit "A"

From: Media Relations <MediaRelations@sdsheriff.org>
Date: January 2, 2024 at 5:32:26 PM PST
To: Art Castañares <art@laprensasd.com>
Subject: RE: Jesus and Andrea Cardenas bookings

Mr. Castañares,

It is the policy of the San Diego County Sheriff's Department to release booking photos only when there is an immediate threat to public safety. Please see the explanation below for your current and future booking photo requests.

The California Government Code Section 6354F (known as the California Public Records Act or CPRA) lists what information is disclosable to the public following a person's arrest. The booking photo is not among the list of disclosable information. *Records of a law enforcement investigation, or any investigatory or security files compiled by a law enforcement agency are exempt from disclosure. Cal. Gov't. Code § 6254(f); Haynie v. Superior Court, 26 Cal. 4th 1061, 1071-72 (2001). This exemption includes the photograph taken during the booking process. Information released pursuant to Government Code section 6254, subsection (f)(1), does not include the booking photograph. Additionally, the Attorney General has stated that a Sheriff has discretion to release copies of booking photographs of arrested individuals. 86 Ops.Cal.Atty.Gen. 132 (2003). Per current policy, the San Diego County Sheriff's Department does not release booking photographs.*

We also have to comply with a new California law AB-1475.
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=20210220AB1475

We are unable to assist you with your request.

Here's what we can release regarding the booking information of Jesus Cardenas.

He surrendered to a Sheriff's County Parole and Alternative Custody Unit (CPAC) Unit in Kearny Mesa for a book and release on January 2 just after 7:00 a.m. He was released on the same day just before 10:00 a.m. on his own recognizance after being photographed, fingerprinted, processed with a promise to appear in court.

Andrea Cardenas was surrendered to a Sheriff's County Parole and Alternative Custody Unit (CPAC) Unit in Kearny Mesa for a book and release on January 2 just after 7:00 a.m. She was released on the same day just before 10:00 a.m. on her own recognizance after being photographed, fingerprinted, processed with a promise to appear in court.

For more information on their court appearance, dates or charges against them, contact the Superior Court or District Attorney's Office.

Melissa Lopez Aquino
Sheriff's Media Relations

From: Art Casta~~res~~ares <art@laprensasd.com>
Sent: Tuesday, January 2, 2024 12:47 PM
To: Media Relations <MediaRelations@sdsheriff.org>
Subject: Jesus and Andrea Cardenas bookings

I would like to renew my request for confirmation of the date and location of any bookings for Jesus and Andrea Cardenas. Under the terms of their releases, they were to be booked by January 3 when they have a readiness conference. Their names and DOBs are below.

Also, I would like to renew my request for any booking photos of the two.

Thank you.

Art

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

v.

ANDREA CARDENAS,
dob 11/28/91;

JESUS ADRIAN CARDENAS,
dob 12/08/82;

Defendants

Arturo Castañares
Publisher / CEO
La Prensa San Diego
San Diego's Original
Latino Community Newspaper

Tel. 619.857.1295
www.laprensaSD.com

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF San Diego

I have read the foregoing COMPLAINT FOR DECLARATORY, INJUNCTIVE, AND OTHER EQUITABLE RELIEF AND PETITION FOR WRIT OF MANDATE etc. and know its contents.

☒ CHECK APPLICABLE PARAGRAPH

☒ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am ☐ an Officer ☐ a partner ☐ a of

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. ☒ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. ☐ The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am one of the attorneys for a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on January 3, 20 24, at San Diego, California.

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

Arturo Castañares

Type or Print Name



Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of _____, State of California.
I am over the age of 18 and not a party to the within action; my business address is, _____

On _____, 20 _____, I served the foregoing document described as _____

☐ _____ on _____ in this action
☐ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:
☐ by placing ☐ the original ☐ a true copy thereof enclosed in sealed envelopes addressed as follows:

☐ BY MAIL

☐ * I deposited such envelope in the mail at _____, California.

The envelope was mailed with postage thereon fully prepaid.

☐ As follows I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at _____ California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on _____, 20 _____, at _____, California.

☐ **(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on _____, 20 _____, at _____, California.

☐ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct. I
☐ (Federal) declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

* (By MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG)

** (FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)