

IN THE SUPREME COURT OF CALIFORNIA

LOS ANGELES UNIFIED)	
SCHOOL DISTRICT)	S269608
)	
Defendant and Petitioner,)	Ct.App. B307389
)	
v.)	L.A. Super. Ct.
)	No. BC659059
THE SUPERIOR COURT OF)	Hon. Shirley K. Watkins
LOS ANGELES COUNTY,)	
)	
Respondent,)	
)	
JANE DOE,)	
)	
Plaintiff and Real Party in)	
Interest)	
)	

PETITIONER'S OPPOSITION TO MOTION FOR JUDICIAL NOTICE

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The Petitioner opposes the Real Party's request that the Court take judicial notice of the following items attached to her Motion for Judicial Notice: Exhibit 2 (Factsheet for AB 218), Exhibit 3 (10/13/2019 Los Angeles Times Article), Exhibit 4 (11/20/2017 Voice of San Diego Article), and Exhibit 5 (1/22/2019 Voice of San Diego Article).

Exhibits 2, 3, 4 and 5 are not part of the legislative history.

Although legislative history materials are not always required to meet the standards for judicial notice, that is not a license to submit any piece of paper that may have found its way into a legislator's file. As the Third District Court of Appeal has explained, "Many attorneys apparently believe that every scrap of paper that is generated in the legislative process constitutes the proper subject of judicial notice. . . . This must stop." (*Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.* (2005) 133 Cal.App.4th 26, 29.) "To constitute cognizable legislative history, a document must shed light on the view of the Legislature as a whole." (*That v. Alders Maintenance Assn.* (2012) 206 Cal.App.4th 1419, 1428, fn. 9.)

Newspaper articles "are generally not considered part of a statute's legislative history." (*Valley Vista Services, Inc. v. City of Monterey Park* (2004) 118 Cal.App.4th 881, 891, fn. 7.) The authorities that the motion cites for judicial notice of newspaper articles were not concerned with their use as legislative history. (See *Brodeur v. Atlas Entertainment, Inc.* (2016) 248 Cal.App.4th 665, 673 (newspaper articles submitted

to show “the significant public interest in the subjects at issue in this case”); *People v. Pizarro* (1992) 10 Cal.App.4th 57, 72 (journal articles could be used in determining whether DNA identification is or is not generally accepted); *Gherna v. Ford Motor Co.* (1966) 246 Cal.App.2d 639, 652 (judicial notice of advertising materials permitted to support breach of warranty claim).

The exhibits that the District objects to do not meet the standards for consideration as legislative history:

Exhibit 2 (fact sheet): Because there is no showing that the sponsor’s fact sheet was ever communicated to the legislature as a whole, judicial notice is not appropriate. (*Noori v. Countrywide Payroll & HR Solutions, Inc.* (2019) 43 Cal.App.5th 957, 968, fn. 11; *Kaufman & Broad, supra*, 133 Cal.App.4th at p. 39.)

Exhibits 3, 4 and 5 (newspaper articles): Even if newspaper articles could be used to shed light on legislative intent, the motion does not show that they were ever presented to the legislature as a whole.

Exhibits 2, 3, 4 and 5 are not proper subjects of judicial notice.

“Judicial notice may not be taken of any matter unless authorized or required by law.” (Evid. Code, § 450.) By operation of Evidence Code section 459, this Court may take judicial notice of any matter specified in Evidence Code section 452. The only provision in section 452 that could apply here is that for “facts and propositions that are not reasonably subject

to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy,” which appears in subdivision (h).

Exhibit 2 (the sponsor’s fact sheet) certainly does not meet that standard. It contains her personal views, and refers to some cases of childhood sexual abuse that got media attention.

The newspaper articles in Exhibits 3, 4 and 5 likewise fail to meet that standard, and “are not proper authorities to establish the truth of the matters asserted therein.” (*Voris v. Lampert* (2019) 7 Cal.5th 1141, 1147, fn. 5; see also *Linda Vista Village San Diego Homeowners Assn., Inc. v. Tecolote Investors, LLC* (2015) 234 Cal.App.4th 166, 186.)

Although judicial notice of newspaper articles may be appropriate where their mere publication is relevant to an issue in the case, the articles may not be used to establish that what is said in the articles is true.

Although the Real Party asserts that Exhibits 3, 4 and 5 are not offered for the truth of their content, but for their existence, she does not explain how the existence of the articles alone is relevant to any issue before the Court. Indeed, the motion makes clear that the truth of the articles is exactly what real party wishes the Court to pay attention to. Pointing to references to cases of childhood sexual abuse in the sponsor’s fact sheet, the motion asserts that the articles “provide further details of the allegations.” In other words, the motion asks the

Court to accept as true the accounts of those incidents in the articles.

As this Court said in *Zelig v. County of Los Angeles* (2002) 27 Cal.4th 1112, 1141, fn. 6, “The truth of the content of the articles is not a proper matter for judicial notice, and the circumstance that the articles were published is irrelevant to our discussion.”

Conclusion

The Court should deny the Real Party’s Motion for Judicial Notice.

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STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **LOS ANGELES UNIFIED SCHOOL DISTRICT v. S.C. (JANE DOE)**

Case Number: **S269608**

Lower Court Case Number: **B307389**

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

12/2/2021

Date

/s/Calvin House

Signature

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