

THE VR SCHOOL

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MEMORANDUM

TO: Thomas Prouty, Esq., Deputy General Counsel, Legal and Audits Branch, California Department of Education (TProuty@cde.ca.gov)

FROM: Freedom Cheteni, Ph.D., Plaintiff-Appellant, pro se — *Cheteni v. California Department of Education*, No. 26-2278 (9th Cir.); N.D. Cal. No. 3:23-cv-06286-SI

CC: State Bar of California, Office of Chief Trial Counsel — Intake (intake@calbar.ca.gov); State Superintendent of Public Instruction (superintendent@cde.ca.gov)

DATE: July 3, 2026

RE: Final demand for (1) the compiled public school superintendent list, including email addresses, and (2) the video deposition of Dr. Freedom Cheteni promised on the record; the duties of candor and fairness under Business and Professions Code sections 6068(d), 6103, 6106, and 6128(a) and Rules of Professional Conduct 3.3, 3.4, 4.1, and 8.4; and notice of filing in the Ninth Circuit at 7:30 p.m. today

I. THE TWO DEMANDS

This memorandum makes two demands, and only two. Neither is novel; both have been made before, in writing, and remain unmet.

First, produce today the compiled list of California public school district superintendents — name, email address, mailing address, and county — in the same format Mr. Peter J. Stubbs used when he produced the identical compilation for Nonpublic School superintendents. It is, as I have said before, a spreadsheet. The Department holds it as a single exportable field in the California School Directory database from which your July 3 production was itself exported.

Second, produce the video recording of my deposition, which CDE stated on the record it would provide, and state in writing the exact date on which CDE received that recording from the videographer. I intend to move to make it part of the record on appeal. See Fed. R. App. P. 10(e), 27.

II. THE RECORD THAT COMPELS THEM

A. The superintendent emails. You have represented, to me and in substance to the district court, that the CDE public directory contains all superintendent contact details, including email addresses. It does not — not in any compiled, usable form — and your own July 3, 2026 email says so: CDE, you wrote, “does not create and publicly disclose a spreadsheet of the email addresses of all LEA superintendents.” A referral to sources that do not contain the record requested is not production. It is denial wearing production’s clothes.

The contrast with your predecessor is instructive, and it is documentary. Mr. Stubbs produced in discovery a complete Excel spreadsheet of every Nonpublic School superintendent in California — name, email, address, county. Those email addresses are not in the public directory either; he produced them because they were responsive and because candor required it. When the identical compilation for

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public school superintendents was requested of you, you sent webpage links four times, and then suggested that I was “having difficulties” accessing what the links contain. The links do not contain it. One does not have difficulty finding what is not there. An attorney who directs a requester to a source he knows to be empty of the record sought, and then attributes the failure to the requester, has not misspoken; he has misdirected — and the misdirection is in writing, over his own signature.

B. The video deposition. On the record, CDE stated that the video recording of my deposition would be provided to me. You have since represented, more than once, that the videographer had not delivered it. CDE’s own financial records, produced in response to my Public Records Act request, show that the deposition was paid for with public funds. Those two propositions sit poorly together. Either the Department paid public money for a record it never received and never once pursued — through the entirety of summary judgment briefing — or it received the record and you have withheld it. There is no third possibility, and I am entitled to know, in writing and today, which of the two it is, together with the date of receipt. The video was to be available before the summary judgment moving papers were filed. It was not produced; judgment was entered on the record as you shaped it; and the appeal is pending. It is my position — stated here, as before, so that you may respond before I file anything — that the withholding was deliberate.

The law does not grade these things on a curve of artfulness. “No distinction can therefore be drawn among concealment, half-truth, and false statement of fact.” *Grove v. State Bar* (1965) 63 Cal.2d 312, 315. A representation that a record has not arrived, made while the record sits paid-for and undelivered to the party entitled to it, is not a lesser species of falsehood. It is the thing itself.

III. THE GOVERNING DUTIES

So that nothing is left unaddressed, the duties implicated by the conduct described above are these:

- 1. Business & Professions Code § 6068(d).** It is the duty of an attorney “to employ, for the purpose of maintaining the causes confided to him or her those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law.”
- 2. Rule of Professional Conduct 3.3(a)(1), (c).** A lawyer shall not knowingly make a false statement of fact to a tribunal, or fail to correct one previously made; and the duty to correct “continue[s] to the conclusion of the proceeding.” The proceeding has not concluded. The appeal is pending. Every uncorrected representation made to Judge Illston is a violation renewed daily.
- 3. Rule 3.4.** A lawyer shall not suppress evidence the lawyer or the lawyer’s client has a legal obligation to produce, nor obstruct another party’s access to evidence.
- 4. Rule 4.1(a).** In the course of representing a client, a lawyer shall not knowingly make a false statement of material fact to a third person. The repeated representation that responsive email addresses reside in the public links, and that the videographer had not delivered the deposition, were statements of material fact made to me.

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5. Rule 8.4(c), (d). It is professional misconduct to engage in conduct involving dishonesty, deceit, or misrepresentation, or in conduct prejudicial to the administration of justice.

6. Business & Professions Code § 6106. Any act involving moral turpitude, dishonesty, or corruption is cause for disbarment or suspension — whether or not committed in the course of an attorney's practice.

7. Business & Professions Code § 6103. A wilful violation of an attorney's duties or oath constitutes cause for disbarment or suspension.

8. Business & Professions Code § 6128(a). An attorney who is party to "any deceit or collusion, with intent to deceive the court or any party" is guilty of a misdemeanor. The Legislature did not leave candor to professional aspiration; it attached criminal consequence to its absence.

IV. WHAT THE SUPREME COURTS HAVE SAID

The California Supreme Court has spoken to this conduct without qualification. Misleading or attempting to mislead a judge violates section 6068(d), "constitutes moral turpitude and warrants discipline" — and the attorney's belief that his underlying position is colorable is no defense to the candor violation. *Bach v. State Bar* (1987) 43 Cal.3d 848, 855. Misrepresentation to a court is itself an act of moral turpitude. *Davis v. State Bar* (1983) 33 Cal.3d 231, 240. Concealment of a material fact "misleads the judge as effectively as a false statement." *Grove*, 63 Cal.2d at 315. The State Bar Court has treated the offense as unitary and serious, *In the Matter of Jeffers* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211, and has disbarred for it, *In the Matter of Kun* (Review Dept. 2018).

The United States Supreme Court has said the same, and said it of counsel for the government in particular. Government counsel "may strike hard blows, [but] he is not at liberty to strike foul ones"; the sovereign's interest "is not that it shall win a case, but that justice shall be done." *Berger v. United States*, 295 U.S. 78, 88 (1935). You represent the State of California. The obligation Berger describes is yours in full measure. Deception practiced upon a court "is a wrong against the institutions set up to protect and safeguard the public," and no judgment procured by it is safe. *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944). The federal courts retain inherent power to sanction bad-faith conduct and to set aside what fraud has obtained. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44–46 (1991). Membership in the bar "is a privilege burdened with conditions," *Theard v. United States*, 354 U.S. 278, 281 (1957) (quoting Cardozo, J.), and the first of those conditions is truth — because a trial is, at bottom, "a search for truth." *Nix v. Whiteside*, 475 U.S. 157, 166 (1986).

V. PREJUDICE AND DUE PROCESS

The evidence withheld is not peripheral. The superintendent contact data is the gateway to the district enrollment figures needed to complete the low-income computation that CDE's own Audits and Investigations Division required of me under the EANS program — evidence that bears directly on the discrimination documented throughout the docket — and the video deposition was to be part of the summary judgment record. A party against whom judgment is entered on a record from which his adversary has withheld material evidence has not received the process the law guarantees him; he has

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received its silhouette. I have expended substantial time and personal funds pursuing records the Department was obligated to produce, and I expressly reserve the right to recoup those costs, including under Government Code section 7923.115 and by motion for sanctions in the appropriate forum.

VI. THE BAR COMPLAINT AND THE FILING

A complaint has been lodged with the State Bar of California. Understand its purpose: my object is production, not punishment, and I do not write to demand your discipline — that judgment belongs to the Bar and to the courts. But the conduct described here is no longer an incident; it is a pattern, and a pattern is precisely what disciplinary authorities and reviewing courts are constituted to examine. The Office of Chief Trial Counsel is copied on this memorandum so that the record is preserved should a case be opened. It is your words — on the record, in the video, and over your signature — that will be reviewed, not mine.

VII. THE DEADLINE

It is now evening. I have extended deadlines before, and I have given you every opportunity a member of the bar could ask for to correct course. Here is the last one. By **7:30 p.m. today, July 3, 2026**, either (1) produce the superintendent spreadsheet and the video deposition, with the date of the video's receipt stated in writing, or (2) state in writing your objection to the filing. Absent one or the other, I will file in the Ninth Circuit a motion asking the Court to take judicial notice of this correspondence and of the conduct it documents, and, if necessary, I will petition for a writ of mandamus. It will be an unhappy day for the Department when an extraordinary writ must issue to secure something as elementary as candor — but the election is yours, and it always has been.

You deny me due process of law when you withhold material evidence, and I am prejudiced as a result. This is my final request.

Govern yourself accordingly.

Respectfully,

/s/ Freedom Cheteni, Ph.D.

Freedom Cheteni, Ph.D. ("Dr. Saint Freedom")

Superintendent, The VR School (CEEB 170588)

Plaintiff-Appellant, pro se, *Cheteni v. Cal. Dep't of Education*, No. 26-2278 (9th Cir.)

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Electronic Signature Statement: This document is signed electronically. The /s/ signature above is intended by the signatory to constitute his legal signature.