

TENTATIVE

The court has read plaintiff's "Motion to Compel California Commission on Teacher Credentialing To Produce Records Subpoenaed By Plaintiff"; his "Separate Statement"; the "Opposition of Non-Party Commission on Teacher Credentialing to Plaintiff's Motion to Compel Compliance with Business Records Subpoena"; and the "Declaration of William D. Gardner In Support of Opposition of Non-Party California Commission on Teacher Credentialing To Plaintiff's Motion to Compel Compliance With Business Records Subpoena," along with exhibits. A reply was submitted on March 26, 2024.

The court cannot rule on the motion at this time given the deficient Separate Statement submitted by plaintiff. It reads like a Memorandum of Points and Authorities, advancing broad challenges without reference to specific responses made by the Commission on Teacher Credentialing. The court is left to guess at what responses are actually being challenged, with particular emphasis on redacted responses contained in Exhibit 3 of attorney Cindy Suh's declaration (which consists of the "Application for California Life Diploma"). For example, does plaintiff want Mr. Donowick's home address, date of birth, and information about citizenship? What about answers to all parts of question 11 (as opposed to just four)? What about the information on page 3 concerning Mr. Donowick's birthplace? What about the information under the "Application for Credential Authorizing Public School Service"? What about the redacted information under the title "Education" on page 5? What about the answers to Question 9? What about the redactions clearly present on the next three pages? These examples are not intended to be exhaustive, but illustrative. Plaintiff must (with precision) identify what is – and what is not – at issue. The Separate Statement must list the specific request, the specific response, and the arguments for both parties, in serial fashion. Plaintiff's current submission requires the court to examine other documents in the record in a vain attempt to discern what responses are actually at issue. Nothing offered in reply remedies this problem.

California Rules of Court, rule 3.1345(c) could not be clearer about what is required in a separate statement. "A separate statement is a separate document filed and served with the discovery motion that provides all the information necessary to understand each discovery request and all the responses to it that are at issue. **The separate statement must be full and complete so that no person is required to review any other document in order to determine the full request and the full response.** Material must not be incorporated into the separate statement by reference. The separate statement must include – for each discovery request (e.g., each interrogatory, request for admission, deposition question, or inspection demand) to which further response answer, or production is required – the following: (1) The text of the request, interrogatory, question, or inspection demand; (2) The text of each response, answer, or objection, and any further responses or answers; (3) A statement of the factual and legal reasons

for compelling further responses, answers, or production as to each matter in dispute; (4) If necessary, the text of all definitions, instructions, and other matters required to understand each discovery request and the responses to it; (5) If the response to a particular discovery request is dependent on the response given to another discovery request, or if the reasons a further response to a particular discovery request is deemed necessary are based on the response to some other discovery request, the other request and the response to it must be set forth; and (6) If the pleadings, other documents in the file, or other items of discovery are relevant to the motion, the party relying on them must summarize each relevant document.” (Emphasis added; see, e.g., *Mills v. U.S. Bank* (2008) 166 Cal.App.4th 871, 893 [trial court within its discretion to deny a motion to compel further responses because of a nonconforming separate statement].)

The trial court continues the hearing from April 3, 2024, to Wednesday, May 22, 2024, at 8:30 a.m., in Department 1. Plaintiff is directed to submit with this court and serve an Amended Separate Statement, complying with the requirements enunciated above, by 5:00 p.m. on April 19, 2024. The Commission on Teacher Credentialing is permitted to file and serve a Response Separate Statement, if desired, by 5:00 p.m. on May 3, 2024. Each is permitted to file a 5-page memorandum with its (Amended) Separate Statement (detailing additional arguments and authority). Plaintiff is permitted to submit a reply, if desired, by 5:00 p.m. on May 14, 2024. *No other briefing is authorized or permitted and will be stricken if submitted.*