

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SACRAMENTO
GORDON D SCHABER COURTHOUSE**

MINUTE ORDER Amended on 12/23/2009

Date: 12/23/2009

Time: 09:00:00 AM

Dept: 54

Judicial Officer Presiding: Shelleyanne W L Chang

Clerk: J. Hart

Reporter/ERM: T. Goleno CSR# 10127

Bailiff/Court Attendant: V. Carroll

Case No: **34-2007-00883573-CU-PT-GDS** Case Init. Date: 12/18/2007

Case Title: **Prison Legal News vs. Tilton**

Case Category: Civil - Unlimited

EVENT ID/DOCUMENT ID: 1314781

EVENT TYPE: Motion - Other - Civil Law and Motion

APPEARANCES

Kenneth M. Walczak, specially appearing for counsel Sanford Rosen, present for Petitioner(s).
Jeffrey I. Bedell, specially appearing for California Department of Corrections, self represented
Defendant.

Nature of Proceeding: Motion for Order Directing Disclosure of Public Records

TENTATIVE RULING

Petitioner seeks documents categorized as "Paid Adult Legal Claims", from 2002-2007, from cases where CDCR has paid out more than \$25,000 in settlement or judgment for any litigation. CDCR has identified 272 cases responsive to this request. CDCR argues that the demand, even as limited to the 272 cases, places an unreasonable burden on CDCR. It asserts that it only has those documents provided by its litigation counsel, which may not be the final versions filed with the court. In addition, it asserts that the documents would have to be redacted to eliminate privileged or exempt information. CDCR, however, does not state that it has attempted to obtain the documents from its litigation counsel, which may be able to access and obtain the documents in a quicker and more efficient manner. In addition, although CDCR asserts the best source for many of the documents sought would be PACER or the superior courts in which the cases were filed, it has, according to Petitioner, failed to supply case numbers for a majority of the cases in which it made payments during the relevant period, making it impossible for Petitioner to determine if the documents it seeks are available online.

The court is mindful of the fact that the plaintiff initially requested these documents over two years ago, yet to date, it appears that CDCR has done nothing of any significance to comply with the request except to complain that the request is unduly burdensome. It appears that CDCR knew that many of the documents sought were in the possession of outside counsel, but did nothing to retrieve said documents, and it appears it still has taken no action to obtain the records from outside counsel.

The O.S.C. is discharged and Respondent is ordered to produce the records. It will be up to Respondent

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to obtain the records by whatever means, either through outside counsel or by searching its own files at CDCR or the State Archives. The records are to be produced no later than Monday, February 1, 2010. It may be that the cost of obtaining them from outside counsel will be cheaper than having its staff comb through the files Respondent maintains.

In addition, Respondent is ordered to provide Petitioner with identifying information, including case numbers, for all 272 cases, no later than Wednesday, January 6, 2010, so Petitioner can determine if any of the documents sought are available online.

This minute order is effective immediately. No formal order nor further notice is required. (Code Civ. Proc., §1019.5 and CRC, Rule 3.1312.)

COURT RULING

The matter was argued and submitted. After hearing oral argument the Court affirmed its tentative ruling with the following modification:

In paragraph three, strike Monday, February 1, 2010 and change the sentence to read: The records are to be produced no later than Wednesday, March 1, 2010.

In paragraph four, strike 272 cases and Wednesday, January 6, 2010 and change the sentence to read: In addition, Respondent is ordered to provide Petitioner with identifying information, including case numbers, for all 742 cases, no later than Monday, February 1, 2010, so Petitioner can determine if any of the documents sought are available online.