

**FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE
STATE OF NEW MEXICO**

SANTA FE REPORTER NEWSPAPER,

Plaintiff,

v.

D-101-CV-2019-00661

**THE CITY OF SANTA FE and
GREG GURULE, in his official capacity as a
Records Custodian for the City of Santa Fe,**

Defendants.

ORDER FOLLOWING IN CAMERA REVIEW

THIS MATTER having come before the Court pursuant to its May 14, 2020 Order on Motion to Compel and the Court, having reviewed the bates stamped documents submitted by the City of Santa pursuant to that order after reviewing counsels' filings related to the documents and after reviewing relevant case precedent, including but not limited to that cited in the Order, and being otherwise fully informed in the premises,

THE COURT HEREBY FINDS AND CONCLUDES that:

1. For purposes of the Court's review, it is applying "matters of opinion in personnel files" exception to IPRA at NMSA 1978, §14-2-1.
2. As explained in *Cox v. New Mexico Dep't of Pub. Safety*, 2010-NMCA-096, ¶ 21, ". . . the location of a record in a personnel file is not dispositive of whether the exception applies; rather, the critical factor is the nature of the document itself." The Court further explained "that the Legislature intended to exempt 'matters of opinion' that constitute personnel information of the type generally found in a personnel file,

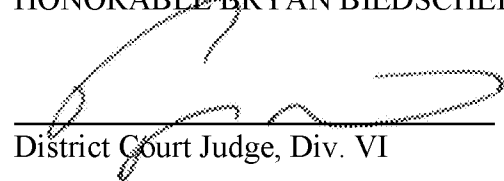
- i.e., information regarding the employer/employee relationship such as internal evaluations, disciplinary reports or documentation, promotion, demotion, or termination information; or performance assessments.”
3. Plaintiff, in its Complaint, states that it requested documents related to Jacquaan Matherson, Nick Wood, and Ladislav Szabo.
 4. The City of Santa Fe produced no documents related to Nick Wood for in camera review and, instead, it produced documents related to another individual. This does not satisfy the Court’s order to produce all responsive records for review.
 5. With respect to Detective Szabo’s records, the Court finds that documents bates stamped 0036-0044 are public records that do not fit the plain reading of the exemption provided in §14-2-1 or the description provided by *Cox*.
 6. With respect to Officer Matherson’s records, the Court finds that documents bates stamped 0068-0070 are public records that do not fit the plain reading of the exemption provided in §14-2-1 or the description provided by *Cox*.
 7. The remainder of the bates stamped documents fit within the description provided by *Cox* and so were properly withheld by the City of Santa Fe.

THE COURT HEREBY ORDERS that Defendant City of Santa Fe shall provide any and all documents that it withheld from production related to Nick Wood to the Court on or before June 5, 2020 for in camera review and that the City of Santa Fe shall produce the documents identified above as being outside the stated IPRA exception to the Plaintiff within fifteen days of entry of this Order or, in the alternative, it shall advise the Plaintiff and Court that it intends to seek interlocutory appeal of this decision;

IT IS FURTHER ORDERED that, in the event that the City notifies Plaintiff and the

Court that it is seeking interlocutory appeal, then the Court will review the Wood documents; issue an opinion as to which, if any, of them must be produced; and hold a subsequent hearing on an award of attorneys' fees and damages so that the Court will have a final decree in this matter from which the City of Santa Fe may appeal.

HONORABLE BRYAN BIEDSCHEID



District Court Judge, Div. VI

A copy of this Order will be emailed on the date of acceptance for e-filing to all counsel who registered for service in this case as required by the rules.

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