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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF SAN DIEGO

10 CALIFORNIA FOUNDATION FOR ) No.  
11 FISCAL RESPONSIBILITY; MARCIA )  
FRITZ, )  
12 )  
13 Petitioners, )  
14 v. ) **PETITION FOR WRIT OF MANDATE**  
15 SAN DIEGO COUNTY EMPLOYEES )  
RETIREMENT ASSOCIATION, )  
16 Respondent. )  
17 \_\_\_\_\_ )

18 Petitioners California Foundation for Fiscal Responsibility and Marcia Fritz respectfully  
19 petition this Court for a writ of mandate under Government Code section 6258 directing  
20 respondent, San Diego County Employees Retirement Association, to disclose nonexempt  
21 public records that were properly requested. Petitioners allege as follows:

22 PARTIES

23 1. Petitioner California Foundation for Fiscal Responsibility (CFFR) is a nonprofit  
24 organization under Internal Revenue Code section 501(c)(4). CFFR exists to educate  
25 government decision-makers and the general public about California public employee  
26 retirement benefit issues, and to help solve the crisis of unsustainable state and local  
27 retirement costs by developing fiscally responsible solutions that are fair to employees,  
28 employers, and taxpayers.



1 the public interest served by disclosure.” A copy of SDCERA’s denial letter is attached as  
2 Exhibit 2.

3 7. Several of the grounds cited in SDCERA’s denial letter were based on the  
4 supposed “broadness” of petitioners’ request. On or about August 10, 2010, counsel for  
5 petitioners sent an email to counsel for SDCERA, clarifying the narrow scope of petitioners’  
6 request. It said, “My clients want only the name, monthly amount, and last employing agency  
7 of any retiree/beneficiary receiving retirement benefits of \$8,333 or more per month, along with  
8 the worksheet calculation of his/her retirement benefits. While there may be, as you say,  
9 additional information contained on the calculation worksheet such as the member’s social  
10 security number, date of birth, and address, my clients are not interested in any of that  
11 information. They want only the calculation of benefits. Personal information of the type listed  
12 should be redacted.” Counsel’s email also noted that, since the date of petitioners’ request,  
13 a fourth trial court had ruled that the requested information is public record. A copy of counsel’s  
14 email is attached as Exhibit 3.

15 8. On or about August 12, petitioners’ counsel received a reply by email from  
16 SDCERA’s counsel. It said, “the information that is available in the financial reports and other  
17 documents on SDCERA’s website should be sufficient for CFFR’s purposes. Under  
18 Government Code Section 31532 and the other authority cited in Mr. White’s letter, SDCERA  
19 is statutorily barred from releasing the confidential and private member names, pension  
20 amounts, and other individual member data sought by CFFR. The recent trial court decisions  
21 involving other retirement systems are not binding on SDCERA.” A copy of this reply is  
22 attached as Exhibit 4.

23 9. The names of payees and the amount they receive in public funds from a public  
24 agency are quintessential public records. They are not exempt “personnel” or “medical”  
25 records, “sworn statements” or “individual records” containing confidential personal information  
26 under the Government Code sections cited in SDCERA’s denial. Nor are the financial records  
27 of a public agency protected from public inspection on the theory that the payee has a right  
28 to privacy under article I, section 1 of the California Constitution or the balancing test in

1 Government Code section 6255(a). SDCERA identified no other grounds for exemption.

2 10. Unless a record is “exempt from disclosure by express provisions of law,”  
3 SDCERA “upon a request for a copy of records that reasonably describes an identifiable record  
4 or records, shall make the records promptly available.” Gov. Code § 6253.

5 11. Petitioners’ request reasonably described identifiable records.

6 12. Government Code § 6258 provides, “Any person may institute proceedings for  
7 ... writ of mandate ... to enforce his or her right to inspect or to receive a copy of any public  
8 record or class of public records.”

9 13. Unless this Court orders respondent SDCERA to discharge its statutory duty to  
10 provide the requested public records, petitioners will be denied their constitutional and statutory  
11 rights of access, a harm for which petitioners have no adequate remedy at law.

12 WHEREFORE, petitioners pray for judgment as set forth below:

13 PRAYER

14 Based on the foregoing allegations, petitioners pray for judgment against respondent  
15 SDCERA as follows:

16 1. For a peremptory writ of mandate commanding SDCERA to produce the records  
17 requested in CFFR’s July 23, 2010 letter; specifically, for each retiree/beneficiary whose gross  
18 monthly pension benefit exceeded \$8,333 in any month in 2010, the retired employee’s name,  
19 the last employing agency, the amount of his or her monthly benefit, and the worksheet  
20 calculation of his or her benefit.

21 2. For costs of suit including reasonable attorney fees.

22 3. For such other or further relief as the Court deems just and proper.

23 DATED: August 19, 2010.

Respectfully submitted,

24 TREVOR A. GRIMM  
25 JONATHAN M. COUPAL  
26 TIMOTHY A. BITTLE

27 \_\_\_\_\_  
TIMOTHY A. BITTLE  
28 Attorneys for Petitioners

VERIFICATION

I, Marcia Fritz, declare:

I am one of the petitioners in this action. I am also the Vice President of petitioner California Foundation for Fiscal Responsibility, and authorized to sign this Verification on its behalf. I have read the attached Petition for Writ of Mandate. Except as to matters stated on information and belief, the allegations contained therein are true of my own knowledge and, with regard to those matters stated on information and belief, I believe them to be true.

I certify, upon penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that this verification was executed on the date shown below in the City of Sacramento, California.

DATED: August 19, 2010.

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MARCIA FRITZ