

*Superior Court of California
County of Los Angeles*

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| Cesia Reynoso, Plaintiff | Case BC683755 No.: |
| vs. Denny's Inc., et al., Defendants | Tentative Ruling |

Hearing Date: July 31, 2018
Department 54, Judge Ernest M. Hiroshige
Motion to Quash School Records Subpoenas
Motion to Quash Employment Record Subpoena
Moving Party: Plaintiff Cesia Reynoso
Responding Party: Defendants Denny's Inc. and Benedicto Alburez Murillo

T/R: MOTION TO QUASH SCHOOL RECORDS SUBPOENA IS GRANTED.

PLAINTIFF TO NOTICE.

The court considers the moving papers, opposition and reply.

BACKGROUND

This action arises out of Plaintiff Cesia Reynoso's ("Plaintiff") employment at Defendant Denny's Inc. ("Denny's") where Plaintiff alleges a manager, Defendant Benedicto Alburez, ("Alburez") repeatedly sexually harassed her. Plaintiff asserted eight causes of action including (1) hostile work environment; (2) quid pro quo; (3) gender based discrimination; (4) assault; (5) battery; (6) retaliation; (7) failure to prevent; and (8) intentional infliction of emotional distress.

ANALYSIS

"If a subpoena requires the attendance of a witness or the production of books, documents, electronically stored information, or other things before a court, or at the trial of an issue therein, or at the taking of a deposition, the court, upon motion reasonably made by any person described in subdivision (b), or upon the court's own motion after giving counsel notice and an opportunity to be heard, may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon those

terms or conditions as the court shall declare, including protective orders. In addition, the court may make any other order as may be appropriate to protect the person from unreasonable or oppressive demands, including unreasonable violations of the right of privacy of the person.” (CCP § 1987.1(a).)

Plaintiff moves to quash three subpoenas for school records served by Defendants on Options for Youth, Triumph Charter Academy, and North Valley Occupational Center. The subpoenas seek documents reflecting, *inter alia*, dates of enrollment, attendance records, units/classes completed, reasons for enrollment, academic achievement test results, disciplinary actions, behavioral issues, complaints by or against Plaintiff, counseling services and the substance of counseling services. Plaintiff asserts that the records requests are protected by her right to privacy and wholly irrelevant. (Decl. Ritz, Exhs. A, B, and C.)

In opposition, Defendants contend that the records are relevant to her honesty and credibility as Plaintiff has misrepresented her education in interrogatories and deposition. Defendants the records are relevant to their defenses to Plaintiff’s emotional distress damages, as well as Plaintiff’s job qualifications, and earning potential. Defendants further contend that they produced Defendant Murillo’s employment records for the last 10 years and therefore Plaintiff cannot reasonably expect to preclude this discovery based on a right to privacy.

The framework for evaluating invasions of privacy in discovery has recently been clarified in *Williams v. Superior Court* (2017) 3 Cal.5th 531. The California Supreme Court held that, generally, “[t]he party asserting a privacy right must establish a legally protected privacy interest, an objectively reasonable expectation of privacy in the given circumstances, and a threatened intrusion that is serious. The party seeking information may raise in response whatever legitimate and important countervailing interests disclosure serves, while the party seeking protection may identify feasible alternatives that serve the same interests or protective measures that would diminish the loss of privacy. A court must then balance these competing considerations.” (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 552, citing *Hill v. National Collegiate Athletic Assn.* (1994) 7 Cal.4th 1, 35.) The Court rejected the cases which held that the party seeking protected information must always show a compelling need or interest. (*Id.* at 557.) Instead, the Court found, “[o]nly obvious invasions of interests fundamental to personal autonomy must be supported by a compelling interest.” (*Id.*)

Plaintiff has established that her school records are a legally protected interest. Defendant, however, has failed to provide a sufficient countervailing interest, which outweighs this right. Firstly, the subpoena seeks many categories of documents that are irrelevant to Plaintiffs claims or Defendant’s defenses. For example, the Court is unpersuaded that documents reflecting requests for accommodation or special needs education are relevant whatsoever. Other categories of documents are tenuously related to any issue in this case, such as Plaintiff’s grades, academic achievement test results or attendance records. As Defendant notes in their opposition, Plaintiff has


already stated in deposition that she did not graduate high school. It is unclear how additional records reflecting this statement are necessary.

Plaintiff's counseling records, disciplinary records and records reflecting complaints by and against Plaintiff are particularly sensitive information. This is especially true because Plaintiff was a minor for much of the relevant time period. Though this may not be subject to a showing of a compelling interest, the sensitivity of the information weighs heavily in favor of non-disclosure. The Court recognizes that Defendants may discover limited information reflecting alternative causes of Plaintiff's emotional distress. However, the Court finds that Plaintiff's privacy interest in these records outweighs Defendants interests in disclosure.

The Court also rejects Defendant's assertion that Plaintiff has no reasonable expectation of privacy because she requested Defendant Murillo's employment records for the past 10 years. Employment records in an employment case are clearly relevant and discoverable, Plaintiff's requests for accommodation in grade school are not.

Based on the foregoing, Plaintiff's motion to quash school records subpoenas is GRANTED.

Date: July 31, 2018



Judge Ernest M. Hiroshige