

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VENABLE LLP
Jean-Paul P. Cart (SBN 267516)
jpcart@venable.com
101 California Street, Suite 3800
San Francisco, CA 94111
Telephone: 415.653.3750
Facsimile: 415.653.3755

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT CODE
§ 6103

Attorneys for Respondent
THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

ENERGY POLICY ADVOCATES,
Petitioner,

v.

THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA,
Respondent.

Case No. 22STCP03214
Assigned to: Hon. James C. Chalfant,
Dept. 85

DECLARATION OF NINA RABIN

Action Filed: August 30, 2022

1 I, Nina Rabin, declare and state as follows:

2 1. I am currently a Clinical Professor of Law at the University of California, Los
3 Angeles School of Law (“UCLA Law”), where I serve as the Director of Clinical Education and
4 the Director of the Immigrant Family Legal Clinic. The matters stated herein are true based on my
5 own personal knowledge and experience, unless otherwise stated on information and belief.

6 2. I received a Bachelor of Arts degree from Harvard University in 1998, followed by
7 a Juris Doctor degree from Yale Law School in 2003. Following a clerkship for the Honorable
8 Dorothy W. Nelson of the United States Court of Appeals for the Ninth Circuit, I worked in
9 private legal practice at a civil rights law firm, and then served as a Clinical Professor of Law at
10 the University of Arizona James E. Rogers College of Law.

11 3. I joined the UCLA Law faculty in 2018 as founding Director of the Immigrant
12 Family Legal Clinic. I was hired in the position of Academic Administrator. In July 2023, I was
13 appointed a Lecturer with Security of Employment. At this same time, I took on an additional role
14 as Director of UCLA Law School’s Clinical Program.

15 4. My area of focus at UCLA Law is teaching and directing the Immigrant Family
16 Legal Clinic. This clinic is located off-campus, on the grounds of a large K-12 public school in
17 the Koreatown/Pico Union neighborhood of Los Angeles. The clinic provides legal services to
18 immigrant students who attend the school and their families. My work requires me to split my
19 time between the law school, where I teach the seminar component of the clinic and have
20 supervision meetings with law students, and the off-site location of our clinic, where I supervise
21 several full-time staff. Specifically, we have an Office Manager/Legal Assistant, two staff
22 attorneys, and several undergraduate work-study interns. Thus, at any given time, I am
23 supervising 10-12 law students plus several full-time employees. We have over 100 current
24 clients on our docket, mostly asylum-seeking families and children who arrived here as
25 unaccompanied minors and are eligible for humanitarian visas.

26 5. Before I came to Los Angeles, I spent over ten years running clinical programs at
27 the University of Arizona. I co-directed the Immigration Law Clinic, and also founded and
28 directed the Workers’ Rights Clinic. Both these clinics involved supervising law students as well

1 as full-time staff attorneys, fellows, and administrators.

2 6. In July 2023, I assumed the additional role of Director of Clinical Education at
3 UCLA Law. In this role, I am responsible for overseeing and coordinating the law clinics at
4 UCLA, understood as credit-bearing courses in which students provide legal services to
5 individuals or entities outside of the law school. It is my responsibility to ensure that clinics are
6 taught using appropriate pedagogy and that client services are provided according to the highest
7 professional and ethical standards.

8 7. UCLA Law, like virtually all top-tier law schools, has a robust clinical education
9 program. UCLA Law currently has 19 active law clinics, including the California Environmental
10 Legislation & Policy Clinic, Community Lawyering in Education Clinic, Documentary Film
11 Clinic, First Amendment Amicus Clinic, Frank G. Wells Environmental Law Clinic, Human
12 Rights Litigation Clinic, Immigrant Family Legal Clinic, Immigrants' Rights Policy Clinic,
13 International Human Rights Clinic, Mediation Clinic, Patent Law Clinic, Pretrial Justice Clinic,
14 Prisoners' Rights Clinic, Real Estate: Affordable Housing Clinic, Street Law Clinic, Supreme
15 Court Clinic, Talent & Brand Partnerships / Name, Image & Likeness Clinic, Tribal Legal
16 Development Clinic, and Veterans' Justice Clinic. Thus, UCLA Law offers students the
17 opportunity to participate in a wide range of clinical programs to suit their interests and
18 professional goals.

19 8. While subject to administrative and budgetary oversight by UCLA Law's central
20 administration, the law clinics operate independently in many respects. The law clinics choose
21 their own clients, terms of engagement, and projects. With respect to materials covered by the
22 attorney-client privilege or work-product protection, all of our clinics take extensive measures to
23 ensure the confidentiality of our client-related work. Examples include: working with our IT
24 department to ensure that our case-related documents are stored in secure environments with
25 higher standards than other law school document storage that does not involve sensitive and
26 confidential information; requiring confidentiality agreements signed by any outside experts,
27 consultants, and volunteers; making special arrangements for classroom observation of clinical
28 instructors as part of their performance evaluations to ensure that confidential information is not

1 covered in the portion of the seminar an outside faculty member observes; opting out of the
2 default recording that most law school classes require in order to avoid recording of confidential
3 client information discussed in clinical seminars.

4 9. The defining feature of clinical education is that it provides law students with the
5 opportunity to serve live clients and to provide actual legal services in a real-world setting. Unlike
6 doctrinal classes and simulations, law school clinics allow students to function as attorneys
7 outside the classroom, assisting real clients under the supervision of clinical instructors, who are
8 licensed and practicing attorneys.

9 10. Summer internships and semester-long externships also give law students the
10 opportunity to gain real-world practical experience. Law clinics, however, are unique in that they
11 have pedagogical components in addition to the provision of legal services. Every law clinic has a
12 seminar component, in which clinical instructors lead discussions on a range of topics related to
13 the clinic's case- or project-work. Clinical pedagogy is distinctive; it aims to be systematic and
14 deliberate, encouraging reflection and self-evaluation as law students experience their role as
15 legal professionals for the first time. Supervising attorneys in a busy law practice outside the law
16 school context do not have the time, training, nor orientation to offer this type of educational
17 experience.

18 11. One of the outmost goals of all of our clinics at UCLA Law is to teach students
19 how to practice law in compliance with the ethical rules of the profession. It is one thing to learn
20 about ethics in the classroom; it is another entirely to grapple with these issues in the context of
21 actual cases and clients. Understanding the responsibilities and duties of the attorney-client
22 relationship by experiencing them firsthand is at the core of the clinical curriculum. Needless to
23 say, confidentiality is one of the foundational concepts within the ethical rules. I cover it in my
24 very first class, as do most clinicians, as we cannot undertake any of our work with the law
25 students before they understand this responsibility. In many clinics, including my own, we
26 organize our workflow so that law students are involved with the initiation of the attorney-client
27 relationship at the start of the semester, including the signing of retainer and engagement
28 agreements. Involving law students in these initial client meetings is a rich opportunity to discuss

1 and teach crucial skills, including how to explain and protect client confidentiality.

2 12. In addition to the pedagogical goals of our clinical program, we also have service
3 goals. Law school clinics are uniquely situated to provide legal services to under-served
4 communities and provide advocacy on matters that would otherwise struggle to obtain
5 representation. Our clinical students and faculty devote countless hours of work to individuals
6 and organizations that cannot afford to hire attorneys, including indigent defendants seeking bail
7 hearings in local jails, unhoused veterans needing assistance with disability benefits, incarcerated
8 people raising civil rights claims, tribal leaders seeking assistance with legal development
9 projects, and survivors of human trafficking who are eligible for humanitarian visas.

10 13. I am informed and believe that the present litigation involves a demand by
11 Petitioner Energy Policy Advocates (“Petitioner”) for the release of two agreements between
12 UCLA Law’s Frank G. Wells Environmental Law Clinic and Sher Edling LLP. While I have not
13 reviewed these agreements, I am informed and believe based upon my review of written
14 interrogatory responses that the agreements are engagement and fee agreements whereby Sher
15 Edling LLP retained the Frank G. Wells Environmental Law Clinic to provide it with legal
16 services.

17 14. It is imperative to the viability of our clinical program that these agreements, and
18 agreements like them entered into by other legal clinics, are not released. They are clearly the
19 types of work product that in any other context would be subject to attorney-client privilege. Our
20 clinical program simply could not operate if our legal work were subject to different rules than
21 the rest of the State Bar. It would make it impossible to form the partnerships and attorney-client
22 relationships that are at the core of our work. We must be able to promise our clients and
23 organizational advocacy partners the same degree of confidentiality they would expect from any
24 other attorney or legal service provider. If we are unable to do so, it undermines both our
25 pedagogical and service goals.

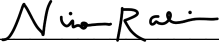
26 15. In terms of clinical pedagogy, we are modeling for students how to handle client
27 confidentiality, teaching them lessons they will then carry with them into their future practice.
28 We cannot undertake this training if our legal work is subject to different rules than what they

1 will face after they graduate.

2 16. In terms of service, it would be a grave disservice to our clients if we were not able
3 to protect their information to the same degree as any other legal service provider. In fact, I do
4 not think it is hyperbole to say that it would potentially render our program invalid, as we could
5 not ethically offer legal services that require our clients to waive the confidentiality protections
6 they are due.

7 I hereby declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct to the best of knowledge. This declaration is executed this 20 day
9 of November, 2023, in Los Angeles _____, California.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



Nina Rabin

