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7 SUPERIOR COURT OF CALIFORNIA  
8 COUNTY OF SONOMA

9 WILLIAM DEENIHAN, ) CASE NO. SCV-244202  
10 Plaintiff, )  
11 vs. ) PLAINTIFF'S REQUEST FOR  
12 ) PRODUCTION OF DOCUMENTS, SET  
13 CITY OF SONOMA, ) NUMBER ONE (1) TO DEFENDANT  
14 Defendant. ) CITY OF SONOMA.  
15 )  
16 ) "Unlimited Civil Case"  
17 ) Date Action Filed: 12-23-08  
18 ) Assigned Judge: Hon. Gary Nadler  
19 ) Dept: 20

20 REQUESTING PARTY: Plaintiff, William Deenihan  
21 RESPONDING PARTY: Defendant, City of Sonoma  
22 SET NUMBER: ONE (1)

23 TO RESPONDING PARTY AND ITS ATTORNEY OF RECORD:

24 DEMAND IS HEREBY MADE by Requesting Party, pursuant to Section  
25 2031.010, et seq. of the Code of Civil Procedure, that Responding Party  
26 produce and permit Requesting Party and/or his agents to inspect, copy or  
27 photograph the documents and records which are in your possession and  
28 control and are listed and identified, below, as REQUESTS NO.1 through 38.

Requesting Party requests that the records and documents requested be produced by means of service by mail to this office on or before **April 31, 2009** along with a statement from you certifying that the copies provided in response to this request are a true, complete, and correct copy of such document or documents.

PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS  
(SET NO.1)

CASE NO. SCV-244202

1 If you sole objection to any of the demands is on the basis that the  
2 demanded document contains information considered by you to contain trade  
3 secrets, or other business proprietary information, plaintiff hereby offers to  
4 enter into an appropriate Protective Order limiting the disclosure of any such  
5 information or documents to the parties to this litigation, their attorneys and  
6 experts. As to any demanded document or portion thereof which is contained  
7 within this classification, please fully identify the document or portion thereof  
8 in your response.

9 **INSTRUCTIONS**

10 1. When responding to this demand for inspection and copying of  
11 documents you are requested to serve and to state as to each of the requests in  
12 accordance with the California Code of Civil Procedure, Section 2031, et seq:

13 (a) That there are such documents in your possession or under  
14 your control and they will be produced;

15 (b) That there are such documents in your possession or under  
16 your control but you refuse to produce them because of a  
17 claim of privilege or for some other reason; or

18 (c) That there are no such documents in your possession or  
19 under your control as are requested by the particular  
20 request.

21 2. Please identify each document by description (memo, contract,  
22 letter, handwritten note, etc.), date, author, recipient, number of pages, and  
23 subject matter, and if you are withholding it from production, state the basis  
24 for your refusal to produce it.

25 3. As to such document(s) which no longer exist but which you are aware  
26 existed at one time, please identify such document(s) in the same manner as  
27 indicated in the previous paragraph, and, in addition, identify the last known  
28 location and reason it is no longer in existence.

4. In the event you object to any of the requests set forth below on the  
basis of a contention that it is overly broad for any reason, please  
respond to that request as narrowed in such a way as to render it not overly

1 broad in your opinion, and state the extent to which you have narrowed that  
2 request for purposes of your response.

3 5. In producing documents pursuant to this request, please indicate to  
4 which numbered request each document is responsive.

### 5 **DEFINITIONS**

6 The following terms and definitions shall apply:

7 1. As used herein, the term "DOCUMENTS" includes all "writings" as that  
8 term is defined in California Evidence Code Section 250 as follows: "Writing  
9 means handwriting, typewriting, printing, photographing and every other  
10 means of recording upon any tangible things, any form of communication or  
11 representation including letters, words, pictures, sounds or symbols, or  
12 combinations thereof." As well as any electronic data stored or residing in any  
13 computer database, hard drive, digital tape, floppy disc, or any other written or  
14 graphic material or communication however denominated.

15 2. As used herein, the word "COMMUNICATION" means and includes any  
16 oral, written or electronic conversation, meeting, conference, correspondence,  
17 communication, message, note or memorandum.

18 3. As used herein, "MEETING" refers to any encounter involving two or  
19 more persons, whether formal or informal, and whether scheduled in advance  
20 or accidental.

21 4. As used herein the word "CONCERNING" shall have and include not  
22 only its commonly understood meaning, but the following meanings as well,  
23 where applicable: relating to comprising, reflecting, evidencing, constituting,  
24 pertaining to, dealing with and showing.

25 5. As used herein, the words "RELATION TO" shall have and include not  
26 only their commonly understood meaning, but the following meanings as well,  
27 where applicable: relating to, comprising, reflecting, evidencing, constituting,  
28 pertaining to and dealing with.

6. As used herein "PERSON" means any natural person, corporation,  
partnership, association, trust, group, organization, agency, bureau,

1 department or entity or any other entity, or any combination thereof.

2 7. As used herein, the singular shall include the plural and vice versa.

3 8. As used herein, the term "YOU" or "YOUR" or "YOURS" refers to each  
4 party to whom this request for production of documents is directed, its agents,  
5 employees, officers, and directors, attorneys and those employed by its  
6 attorneys.

7 9. EMPLOYMENT means a relationship in which an EMPLOYEE  
8 provides services requested by or on behalf of an EMPLOYER, other than an  
9 independent contractor.

10 10. EMPLOYEE means a PERSON who provides services in an  
11 EMPLOYMENT relationship and who is a party to this lawsuit. For purposes of  
12 these interrogatories EMPLOYEE refers to Plaintiff, William Deenihan, an  
13 individual.

14 11. EMPLOYER means a PERSON who employs an EMPLOYEE to provide  
15 services in an EMPLOYMENT relationship and who is a party to this lawsuit.  
16 For the purposes of these interrogatories, EMPLOYER refers to Defendant, City  
17 of Sonoma, a public entity.

18 12. DISABILITY is a physical or mental impairment that limits a major  
19 life activity such as work.

20 13. REASONABLE ACCOMMODATION is any change in the work  
21 environment or in the way things are customarily done that would enable a  
22 qualified individual with a disability to enjoy equal employment opportunities

23 14. ESSENTIAL FUNCTIONS are those job duties that are so fundamental  
24 to the position that the individual holds or desires that s/he cannot do the job  
25 without performing them.

26 15. ADVERSE EMPLOYMENT ACTION means any TERMINATION,  
27 suspension, demotion, reprimand, loss of pay, failure or refusal to hire, failure  
28 or refusal to promote, or other action or failure to act that adversely affected  
the EMPLOYEE'S rights or interests and which is alleged in the PLEADINGS.

1 16. TERMINATION means the actual or constructive termination  
2 employment and includes a discharge, firing, layoff, resignation, or completion  
3 of the term of the employment agreement.

4 17. As used herein, "EACH" shall mean "each and every".

5 18. As used herein, "OR" shall mean "and/or".

6 19. As used herein, "ANY" includes the word "all" and vice versa.

7 20. As used herein. "COMPANY" means Defendant City of Sonoma, a public  
8 entity, along with any of its affiliates, subsidiaries, agents, directors, officers,  
9 employees or other representatives, its attorneys and those employed by its  
10 attorneys.

11 21 As used herein. "IMPROPER" means, contrary to the policies,  
12 procedures, and/or methodologies of the COMPANY, and/or illegal under  
13 California or federal law.

14 **DOCUMENTS TO BE PRODUCED**

15 **REQUEST NO. 01:**

16 All DOCUMENTS identified in YOUR answers to FORM INTERROGATORIES-  
17 EMPLOYMENT LAW, SET NUMBER ONE (1), by mail, on March 24, 2009.

18 **REQUEST NO. 02:**

19 Plaintiff's personnel file. This demand includes but is not  
20 limited to all documents regarding plaintiff's employment,  
21 including all documents regarding the decision to hire plaintiff,  
22 his job duties at all times during his employment, promotions,  
23 reassignments, performance, and termination.

24 **REQUEST NO. 03:**

25 Any and all DOCUMENTS which establish, evidence, relate or refer  
26 to YOUR personnel policies and procedures, plus any and all  
27 amendments or changes thereto, including but not limited to  
28 policies governing retirement, disability, terminations, discipline,  
salary, benefits, vacation, employee evaluations, leaves of absence, job  
duties, assignments, rotation(s) of work assignments, job

1 accommodations, training, safety, and discrimination, from the date  
2 of plaintiff s hire through the present. This request includes, but is not  
3 limited to, copies of the DOCUMENT entitled “Personnel Policy Manual”  
4 published and distributed by you during the tenure of plaintiff’s  
5 employment with YOU.

6 **REQUEST NO. 04:**

7 All DOCUMENTS constituting or relating to any investigation of  
8 plaintiff’s performance conducted by YOU at any time prior to his  
9 termination. This demand includes, but is not limited to, all documents  
10 generated as a result of any investigation which contributed in any way  
11 to your determination that plaintiff was no longer able to perform the  
12 duties of a Maintenance Worker, with or without reasonable  
13 accommodation.

14 **REQUEST NO. 05:**

15 Any and all DOCUMENTS which establish, evidence, relate or refer  
16 to any and all COMMUNICATIONS between YOU and any other  
17 person or entity, including any of YOUR employees or agents,  
18 pertaining to plaintiff or plaintiff’s EMPLOYMENT history,  
19 performance or attendance while employed with YOU.

20 **REQUEST NO. 06:**

21 Any and all DOCUMENTS constituting Plaintiff’s payroll records. This  
22 demand includes but is not limited to, all documents regarding  
23 plaintiff’s compensation and benefits during his employment with YOU.

24 **REQUEST NO. 07:**

25 Any and all files and DOCUMENTS which establish, evidence, relate or  
26 refer to employee benefits applicable to plaintiff during his  
27 EMPLOYMENT with YOU (including but not limited to those benefits  
28 available to plaintiff, the actual benefits received by plaintiff, and the  
monetary value thereof)-

**REQUEST NO.08:**

1 All DOCUMENTS constituting or relating to organization charts  
2 depicting the staffing structure and assignments within YOUR  
3 Department of Public Works from during the tenure of plaintiff's  
4 employment with YOU through the present.

5 **REQUEST NO. 09:**

6 Any and all DOCUMENTS which establish, evidence, refer, or relate  
7 to performance reviews, appraisals and job evaluations of plaintiff.

8 **REQUEST NO. 10:**

9 Any and all DOCUMENTS which establish, evidence, relate or refer  
10 to plaintiff's job performance, achievements and awards while  
11 employed by YOU.

12 **REQUEST NO. 11:**

13 Any and all statements of witnesses or potential witnesses or other  
14 persons interviewed by or on behalf of YOU pertaining to plaintiff's  
15 employment with YOU or TERMINATION from EMPLOYMENT.

16 **REQUEST NO. 12:**

17 Any and all DOCUMENTS which establish, evidence, relate or refer  
18 to complaints or criticism registered or made against plaintiff,  
19 during his EMPLOYMENT with YOU, including any which were made  
20 by plaintiff's coworkers.

21 **REQUEST NO. 13:**

22 Any and all DOCUMENTS which establish, evidence, refer or relate  
23 to any alleged improper conduct by plaintiff during his employment  
24 with YOU including, but not limited to, alleged incompetence,  
25 violations of company policy or dishonesty.

26 **REQUEST NO. 14:**

27 Any and all DOCUMENTS which establish, evidence, refer or relate  
28 to any and all job titles and work assignments held by plaintiff  
during his EMPLOYMENT with you.

**REQUEST NO. 15:**

1 Any and all DOCUMENTS constituting or relating to Job  
2 Descriptions in effect during plaintiff's employment with YOU,  
3 reflecting the duties of any and all positions which plaintiff held  
4 during his employment with YOU. This demand includes, but is not  
5 limited to, all Job Descriptions, or related documents describing the  
6 plaintiff's duties at all times during his employment including  
7 documents drafted by any of his superiors defining such duties. This  
8 demand also includes all documents defining the essential functions  
9 of each such position.

10 **REQUEST NO. 16:**

11 Any and all DOCUMENTS which establish, evidence, refer, or relate to  
12 any transfers of plaintiff or changes in plaintiff's job assignment.

13 **REQUEST NO. 17:**

14 Any and all DOCUMENTS which establish, evidence, refer, or relate to  
15 plaintiff's TERMINATION.

16 **REQUEST NO. 18:**

17 Any and all DOCUMENTS which support YOUR stated reason for  
18 plaintiff's TERMINATION from EMPLOYMENT.

19 **REQUEST NO. 19:**

20 Any and all DOCUMENTS which establish, evidence, refer, or relate  
21 to any communications by and between plaintiff and YOU, regarding  
22 plaintiff's EMPLOYMENT record including, but not limited to, hiring,  
23 work and disciplinary record and history, plus any sick or disability  
24 leave by plaintiff.

25 **REQUEST NO. 20:**

26 Any and all DOCUMENTS which establish, evidence, refer, or relate to  
27 any communication by or between plaintiff and YOU, regarding any  
28 proposed or actual transfer of plaintiff from any job assignment to any  
other job assignment.

**REQUEST NO. 21:**



1 Any and all DOCUMENTS which establish, evidence, relate or refer  
2 to communications by and between YOUR agents, officers or employees,  
3 including all company internal memoranda regarding plaintiff's job  
4 performance.

5 **REQUEST NO. 22:**

6 Any and all DOCUMENTS which establish, evidence, relate or refer  
7 to communications by or between YOUR agents, officers or employees,  
8 including all company internal memoranda, regarding any transfer or  
9 reassignment of plaintiff.

10 **REQUEST NO. 23:**

11 Any and all diaries, journals, memoranda or other notes or accounts of  
12 daily activities or impressions, maintained by YOU or any of YOUR  
13 agents or employees which in any way relate to plaintiff's  
14 EMPLOYMENT with YOU.

15 **REQUEST NO. 24:**

16 Any and all DOCUMENTS which establish, evidence, refer or relate  
17 to YOUR observations that plaintiff demonstrated difficulty in  
18 the performance of the essential functions of the duties of the  
19 position of Maintenance Worker II.

20 **REQUEST NO. 25:**

21 Any and all DOCUMENTS which establish, evidence, refer or relate  
22 to YOUR communications with Plaintiff to ascertain the precise job-  
23 related limitations of his DISABILITY and how they could be overcome  
24 with a REASONABLE ACCOMMODATION.

25 **REQUEST NO. 26:**

26 Any and all DOCUMENTS which establish, evidence, refer or relate  
27 to YOUR efforts to Identify REASONABLE ACCOMMODATIONS for the  
28 work impairments caused by plaintiff's disability.

**REQUEST NO. 27:**

Any and all DOCUMENTS which establish, evidence, refer or relate

1 to YOUR internal communications regarding hiring plaintiff, including  
2 but not limited to offering him a position of employment with YOU

3 **QUEST NO. 28:**

4 Any and all DOCUMENTS which establish, evidence, refer or relate  
5 to YOUR communications, both internal and with plaintiff, regarding  
6 plaintiff's EMPLOYMENT contract, terms, or conditions of  
7 EMPLOYMENT.

8 **REQUEST NO. 29:**

9 Any and all DOCUMENTS which establish, evidence, refer or relate  
10 to ANY employment-related discipline of YOUR employees (or  
11 former employees), Alfonso Bandur, Public Works Administrator, and  
12 Carol Giovanatto, Assistant City Manager. resulting from ANY  
13 complaint, grievance, charge, or filing pertaining to unlawful  
14 discrimination, harassment and/or retaliation.

15 **REQUEST NO. 30:**

16 Any and all DOCUMENTS which establish, evidence, refer or relate  
17 to YOUR policy or policies regarding job accommodations, "interactive  
18 process", and the prevention of job discrimination on account of  
19 disability, including but not limited to identification and enforcement of  
20 said policy, for the period commencing with plaintiff's first date of  
employment by YOU and ending at the present.

21 **REQUEST NO. 31:**

22 If not produced in response to a previous demand, all DOCUMENTS  
23 constituting or relating to all policies and procedures in effect regarding  
24 medical leaves of absence and disability and all times during plaintiff's  
25 employment. This demand includes, but is not limited to, all policies, f  
26 formal and informal, regarding FMLA, CFRA, sick leave, disability  
27 leave, and other forms of medical leave, as well as all policies  
28 regarding reasonable accommodation of medical conditions.

**REQUEST NO. 32:**

1 Any and all DOCUMENTS which establish, evidence, refer or relate  
2 to the efforts and or applications of plaintiff to be promoted within YOUR  
3 COMPANY, including but not limited to any DOCUMENTS evidencing  
4 the reason why plaintiff was or was not promoted.

5 **REQUEST NO. 33:**

6 Any and all DOCUMENTS which establish, evidence, refer or relate  
7 to any and all COMPANY policies allowing COMPANY employees an  
8 opportunity to be heard regarding threatened disciplinary action by  
9 the COMPANY against them prior to the effectuation of threatened  
10 disciplinary action by the COMPANY against them.

11 **REQUEST NO. 34:**

12 Any and all DOCUMENTS which establish, evidence, refer or relate  
13 to any and all requests by plaintiff for an opportunity to be heard  
14 regarding threatened disciplinary action by the COMPANY against him  
15 prior to the effectuation of threatened disciplinary  
16 action by the COMPANY against him.

17 **REQUEST NO. 35:**

18 If not produced in response to a previous demand, any and all  
19 DOCUMENTS which establish, evidence, refer or relate to any and all  
20 COMPANY efforts, between from May through September 2006, to  
21 identify possible job accommodations or modifications for plaintiff's  
22 medical condition and the reason(s) such accommodations or  
23 modifications were either accepted or rejected.

24 **REQUEST NO. 36:**

25 Any and all DOCUMENTS which establish, evidence, refer or relate  
26 to any and all requests by plaintiff for leaves of absence.

27 **REQUEST NO. 37:**

28 If not produced in response to a previous demand, any and all  
DOCUMENTS which evidence, refer or relate to a request or requests by  
plaintiff, from May 2006 through September 2006, to be relieved from

1 part or all of his duties as a Maintenance Worker II on account of  
2 his medical condition or disability.

3 **REQUEST NO. 38:**

4 If not produced in response to a previous demand, any and all  
5 DOCUMENTS which evidence, refer or relate plaintiff's actual use of a  
6 tool commonly referred to as a "jack hammer" in the performance of  
7 his duties as a Maintenance Worker while employed by the City of  
8 Sonoma. This demand includes, but is not limited to, documents  
9 which evidence training on the equipment at "safety," "tool box, " and/or  
10 "tailgate" meetings.

11 **REQUEST NO. 39:**

12 All DOCUMENTS constituting or relating to communications between  
13 YOU and any person or legal entity regarding the reasons for  
14 plaintiff's termination. This demand includes, but is not limited to  
15 prospective employers of plaintiff and communications with current  
16 or former employees regarding the reasons for plaintiff's termination.

17 **REQUEST NO. 40:**

18 All DOCUMENTS constituting or relating to YOUR "Injury and  
19 Illness Prevention Program" as mandated by California's  
20 Occupational And Health Safety Act of 1973 and Title 8, California Code  
21 of Regulations, sections 3203 and 1059, from 1991 to the date of  
22 plaintiff's termination from employment with YOU. The his request  
23 includes, but is not limited to records of "toolbox," "tailgate," and/or  
24 "safety meetings" conducted by YOUR Department of Public Works  
25 along with the record(s) of such meeting, topics discussed, and  
26 material(s) distributed to participants.

27 DATED: MARCH 25, 2009

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FREDERICK JOHN ENGBARTH  
Attorney for Plaintiff  
William Deenihan

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