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**VIA ELECTRONIC MAIL**

April 4, 2025

Daniel R. Cisneros, Esq.  
Deputy City Attorney  
2600 Fresno St., 2d floor  
Fresno, CA 93721

Email: [Daniel.Cisneros@Fresno.gov](mailto:Daniel.Cisneros@Fresno.gov)

Re: Attempted Subpoena to Pablo Orihuela in *People v. Twohands*, No. M25900561

Dear Mr. Cisneros:

I represent Pablo Orihuela, a reporter for FresnoLand and the subject of an attempted subpoena signed by you and emailed to FresnoLand today. I write to object to the attempted subpoena for the reasons discussed below.

As an initial matter, I understand Mr. Orihuela has not been personally served with the subpoena. He does not consent to electronic service or any manner of service other than personal service as required by law. The subpoena may also be untimely under Code of Civil Procedure section 1986.1.

Apart from those issues, I understand you are attempting to subpoena Mr. Orihuela to testify about information related to his reporting for an article published in FresnoLand. I understand he has no information about any matters at issue in the above-referenced case except through reporting on them as a journalist.

On that basis, even if the subpoena were timely and properly served, California's reporter shield law absolutely protects Mr. Orihuela against a subpoena from the City compelling him to testify about any unpublished information, including but not limited to any notes or recollections about any statements made by Mr. Twohands. Accordingly, the City should immediately cease attempting to subpoena Mr. Orihuela.

Under the reporter shield law, any "publisher, editor, reporter, or other person connected with or employed upon a newspaper, magazine, or other periodical publication, or by a press association or wire service, or any person who has been so connected or employed, shall not be adjudged in contempt ... for refusing to disclose the source of any information procured while so connected or employed for publication in a newspaper, magazine or other periodical publication, or for refusing to disclose any unpublished information obtained or prepared in gathering, receiving or processing of information for communication to the public." Cal. Const.,

Art. I, § 2(b); see also Evid. Code § 1070(a). The shield law protects reporters for digital media such as Fresno. *O’Grady v. Superior Court*, 139 Cal. App. 4th 1423, 1466 (2006).

The term “unpublished information” includes any “information not disseminated to the public by the person from whom disclosure is sought, whether or not related information has been disseminated and includes, but is not limited to, all notes, outtakes, photographs, tapes or other data of whatever sort not itself disseminated to the public through a medium of communication, whether or not published information based upon or related to such material has been disseminated.” Cal. Const., Art. I, § 2(b); see also Evid. Code § 1070(c).

As the California Supreme Court has confirmed, the shield law covers any “unpublished information whether confidential or not.” *Miller v. Superior Court*, 21 Cal. 4th 883, 897 (1999); see also, e.g., *Delaney v. Superior Court*, 50 Cal. 3d 785, 805 (1990) (holding protection of shield law “is not contingent on a showing that a newsperson’s unpublished information was obtained in confidence”). Unpublished information protected by the shield law includes unwritten recollections of “percipient observations of a nonconfidential occurrence” or “observations of an event.” *Delaney*, 50 Cal. 3d at 799–800.

The shield law protects Mr. Orihuela against being compelled to answer any questions regarding unpublished information of any kind, including but not limited to questions about whether his notes or recollections “would confirm or refute the accuracy of the statements” attributed to Mr. Twohands in any published reporting. *Playboy Enters. v. Superior Court*, 154 Cal. App. 3d 14, 23 (1984); see also *In re Howard*, 136 Cal. App. 2d 816, 819 (1955) (holding reporter could not be compelled to testify whether “statement attributed to” person “was made directly to” reporter). As a result, Mr. Orihuela cannot be compelled to testify whether Mr. Twohands in fact made any statements attributed to Mr. Twohands in published reporting.

In a criminal case, the shield law provides absolute protection against a subpoena from the prosecution and cannot be overcome by any argument that the information sought is important or necessary to the government’s case. *Miller*, 21 Cal. 4th at 890–901. Accordingly, the City cannot compel Mr. Orihuela to answer any questions related to his sources or reporting and should cease attempting to subpoena him.

All rights are reserved; this letter may not present all applicable claims or arguments. Please let me know if you have any questions. I hope this matter can be resolved without the need for litigation, but if necessary, an appropriate motion may be filed with the court.

Sincerely,



David Loy  
Legal Director