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**VIA ELECTRONIC MAIL**

Jose Luis Fuentes-Roman, Esq.  
Deputy County Counsel, Imperial County  
Email: [joseluisfuentes@co.imperial.ca.us](mailto:joseluisfuentes@co.imperial.ca.us)

Re: Public Record Requests by Joey Scott

Dear Mr. Fuentes-Roman:

I represent independent journalist Joey Scott, who has made requests for public records to Imperial County that seek, among other things, copies of the County's contracts with or communications with the federal Department of Homeland Security or its components Customs and Border Protection or Immigration and Customs Enforcement. I understand from your correspondence with him that the County has denied his requests based on the "Supremacy Clause of the United States Constitution" and "Comity doctrine."

I write to explain why the County's denial of Mr. Scott's requests on that ground violates the California Public Records Act and to request immediate disclosure of all records sought by Mr. Scott. If the County does not comply, it may face litigation under the Public Records Act that would result in an order compelling disclosure and an award of attorney fees. Please ensure that all records requested by Mr. Scott are preserved until further notice.

As you know, the Public Records Act requires the County to disclose any public record on request unless the record is expressly exempt from disclosure by the terms of the Act. (Gov. Code §§ 7920.510, subd. (b), 7920.525, subd. (a), 7922.000, 7922.530, subd. (a); *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, 616.)

The County's denial of Mr. Scott's request cites no exemption that justifies withholding the records he seeks. At best, the reference to the Supremacy Clause might be taken as implicitly attempting to invoke Government Code section 7927.705, which provides that the Public Records Act "does not require disclosure of records, the disclosure of which is exempted or prohibited pursuant to federal or state law." That provision "is not an independent exemption" but "merely incorporates other prohibitions" that allow or require the withholding of public records. (*Copley Press, Inc. v. Superior Court* (2006) 39 Cal.4th 1272, 1283.)

The Supremacy Clause by itself is not a law that creates an exemption from disclosure. As the Supremacy Clause states, "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." (U.S. Const., art. VI, cl. 2.) The Public Records Act does not violate the U.S. Constitution on its face. *L.A. Police Dep't v. United Reporting Publ'g Corp.*, 528 U.S. 32, 40

(1999). The issue is therefore whether any other federal law allows or requires the County to withhold the records requested by Mr. Scott.

The Supremacy Clause “makes ‘Law of the Land’ only ‘Laws of the United States which shall be made in Pursuance [of the Constitution].” (*Printz v. United States* (1997) 521 U.S. 898, 924, emphasis added.) If an otherwise valid federal law is adopted, it can prevail over contrary state law. (See, e.g., *Picayune Rancheria of Chukchansi Indians v. North Fork Rancheria of Mono Indians* (2025) 117 Cal.App.5th 91, 112, fn. 6 [“The laws of the United States ‘shall be the supreme Law of the Land,’ notwithstanding anything to the contrary in the Constitution or laws of any state.”] [quoting U.S. Const., art. VI, cl. 2].)

For example, if a federal law restricts disclosure of records, it might preempt a state statute to the contrary. (See *Rim of the World Unified School Dist. v. Superior Court* (2002) 104 Cal.App.4th 1393, 1399 [“Thus, we conclude that FERPA preempts section 48918, in that section 48918 requires the public disclosure of student expulsion records while FERPA conditions the receipt of federal funds on protecting students and their parents from disclosure of this very type of record.”].)

However, in the absence of a federal law on point, the Supremacy Clause by itself does not create any right or impose any duty to withhold public records. Perhaps a federal agency or official would prefer that the County not disclose the requested records, but the Supremacy Clause demands compliance only with *laws* of the United States, not mere wishes.

Absent a valid federal law to the contrary, states “retain substantial sovereign authority under our constitutional system,” *Gregory v. Ashcroft*, 501 U.S. 452, 457 (1991), including the power to determine the conditions under which public records of state or local agencies must be disclosed. California has adopted the Public Records Act, which the County is bound to follow. To withhold public records based on the mere wish of a third party, federal agency or otherwise, violates a core principle of the Public Records Act: “A state or local agency may not allow another party to control the disclosure of information that is otherwise subject to disclosure pursuant to this division.” (Gov. Code, § 7921.005.) Any asserted “comity” between federal and state or local governments cannot justify violating the plain language of the Public Records Act.

Please ensure that the records requested by Mr. Scott are disclosed immediately. This letter may not make all applicable arguments; all rights are reserved. Thank you very much for your attention to this matter, and please let me know if you have any questions.

Sincerely,

FIRST AMENDMENT COALITION



David Loy  
Legal Director