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15 THE REGENTS OF THE UNIVERSITY OF
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16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 FOR THE COUNTY OF LOS ANGELES — CENTRAL DISTRICT

18 GOVERNMENT ACCOUNTABILITY &
19 OVERSIGHT, P.C.,

20 Petitioner,

21 v.

22 THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA,

23 Respondent.
24
25
26

Case No. 20STCP01226

[Assigned for all purposes to Honorable Mary H.
Strobel]

Date: December 14, 2021

Time: 9:30 a.m.

Place: Dept. 82

**DECLARATION OF ANN CARLSON IN
SUPPORT OF RESPONDENT'S
OPPOSITION BRIEF ON THE MERITS TO
PETITION FOR WRIT OF MANDATE**

Petition filed: April 1, 2020

DECLARATION OF ANN CARLSON

I, Ann Carlson, declare as follows:

I am the Shirley Shapiro Professor of Environmental Law and the Faculty Co-Director of the Emmett Institute on Climate Change and the Environment at the University of California, Los Angeles (“UCLA”) School of Law. Although I am currently on administrative leave while working for the federal government, I am an employee of Respondent The Regents of the University of California (the “Regents”). I have personal knowledge of the matters set forth in this declaration, and would competently testify to them if called as a witness.

1. In the past four years, I have been the subject of at least 16 Public Records Act (“PRA”) requests from entities affiliated with Government Accountability & Oversight, P.C. (“GAO”) and/or GAO’s principal, Christopher Horner.

2. When I received the PRA request at issue in this litigation (the “November 2019 PRA Request”), I asked my assistant to conduct a search of my email account to locate any responsive records.

3. I did not instruct my assistant to limit the search beyond the parameters outlined in the request, and I did not instruct her to withhold any records from the submission to the Records Management and Information Practices Department (“Information Practices”).

4. I believe in transparency and take seriously the need to comply with the California Public Records Act. Each time I am called upon to respond to a request personally, I must take time away from my other work to focus on meeting the request or to arrange for assistance searching for responsive documents. This can be a time-consuming process. For example, one of GAO’s requests sought records covering a three-year period of time. Like most professionals, over time I have increasingly communicated via email, which has led to a significantly greater number of written records I must search through.

5. In addition to searching for records, I must devote time to reviewing them as well. I also have some wholly personal records in my account, and I may need to answer questions posed by Information Practices about the records.

6. The barrage of PRA requests has made me think more about what I am putting in

1 writing. This can hinder my work as an academic in coming up with ideas and solutions.

2 7. The barrage of Public Records Act requests also gives me pause about what issues I
3 work on and about involving other UCLA colleagues because I do not want to put them at risk of
4 being subject to this kind of burden.

5 8. I have started informing third parties that I communicate with that their
6 communications may be subject to release and that they may be targeted if they send me emails.
7 Providing such notices can chill future communications with these individuals and organizations.
8 One individual in particular limits their communications with anyone at a public institution for fear
9 that their communication will be publicized.

10 9. To my knowledge, the Public Records Act requests by GAO target people involved in
11 environmental research (including myself) and activities. GAO and others have used selectively
12 excerpted information received through Public Records Act requests to create misleading content.
13 For example, after UCLA produced documents in response to a different request, Climate Litigation
14 Watch, a blog affiliated with GAO, published multiple articles suggesting that UCLA was
15 improperly withholding records. True and correct copies of those articles are attached hereto as
16 Exhibits A and B. The information contained in these articles is inaccurate.

17 10. In accordance with University of California policy, I sometimes use my university
18 email account to communicate about personal matters. I am troubled by GAO's assertion that any
19 member of the public can compel disclosure of my personal communications simply because they
20 are housed in my university email account. As GAO's actions show, such a rule would enable those
21 who want to target or harass a public servant to expose, twist, or misconstrue personal
22 communications, even if the communications themselves shed no light on the public agency's work.

23 11. As a result of having tenure, I enjoy a greater amount of job security than many of my
24 colleagues. I worry that my colleagues who do not have the same job security will be targeted and
25 smeared by those who might abuse and weaponize the Public Records Act if such personal
26 communications are subject to compelled disclosure. This concern extends beyond just personal
27 communications to include selective excerpts of emails taken out of context as the kind of targeting
28 and smearing I have experienced could have a more devastating impact on a public employee with

1 lesser job security.

2 12. Managing the onslaught of Public Records Act requests by GAO and/or Horner
3 makes conducting my work at UCLA more difficult, particularly when compared to comparable
4 positions at private institutions that have no obligation to comply with the Public Records Act.
5 Given the volume of requests made to me and the GAO and Horner's stated positions with respect to
6 climate change research and activities, I suspect interfering with my work and making it more
7 difficult is one of their goals.

8 13. I am more reluctant now than I used to be previously to conduct internal strategy
9 discussions regarding fundraising for the Emmett Institute on Climate Change and the Environment
10 in writing for fear of later public production.

11 14. Sometimes, when engaging in pre-decisional deliberations about donors or
12 fundraising, it is useful to consult knowledgeable and trusted advisors who are not University
13 employees. Efficient and effective decision-making is aided when deliberative processes can occur
14 in private and include trusted advisors who are not University employees. If emails discussing
15 fundraising strategies with such trusted advisors during the pre-decisional deliberative process were
16 not exempt and were subject to compelled disclosure, the ability of senior University officials to
17 consult with knowledgeable persons who can provide helpful and valuable input would be impaired,
18 harming the public's interest in the effectiveness, efficiency and quality of decision-making by
19 public entities. For example, Daniel Emmett is a strong supporter of and deeply knowledgeable with
20 regard to the Emmett Institute. To brainstorm fundraising ideas for the Institute, I have consulted
21 Mr. Emmett on occasion to get input on fundraising ideas. I understand several of the documents
22 that Information Practices withheld as exempt involved such deliberative emails with Mr.
23 Emmett. Because the ability to deliberate in private, think out loud, and candidly share thoughts
24 even if they are not fully formed is essential for effective and efficient fundraising, I agree that the
25 public interest is served by shielding the privacy of such deliberative processes.

26 15. When I am conducting academic research in anticipation of later producing an
27 academic work, the process of getting input from others is critical to my work.

28 16. Sources who speak with me trust me to quote them correctly. From time to time, I

1 will, prior to publication, communicate with a source to confirm that the quotation I am attributing to
2 them is accurate. If my initial draft of a quote is inaccurate, the source corrects it. If pre-publication
3 communications are subject to compelled disclosure, there is a danger that an inaccurate quote that
4 would normally be corrected is released and misinterpreted.

5 17. I also sometimes share with sources a draft of a chapter or passage to seek their
6 review and input on the ideas I am developing. This back and forth contributes to and improves my
7 final draft. The disclosure of such pre-publication communications also would harm my ability to
8 engage in such collaborations, as sources would be less willing to provide the kind of frank and
9 candid comments that are most helpful if they knew all such comments could be disclosed to the
10 entire public. Such disclosure thus would harm the public's interest in getting the highest quality
11 finished product.

12 18. I believe sources will be less likely to collaborate with me if there is a danger that
13 preliminary discussions with sources, drafts or other pre-publication communications are released.

14 19. It will be damaging if my pre-publication academic research is "scooped" prior to
15 publication by compelled disclosure, as others could take the ideas I and others collaborating with
16 me have developed and appropriate that intellectual property to produce and publish material that
17 would steal the thunder from my publications.

18
19 I declare under penalty of perjury under the laws of the State of California that the foregoing
20 is true and correct. Executed this 11th day of November 2021 in Los Angeles, California.

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23 _____
24 Ann Carlson
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