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8 **SUPERIOR COURT OF CALIFORNIA**
9 **FOR THE COUNTY OF ALAMEDA**

10 FEDERATION FOR AMERICAN)
11 IMMIGRATION REFORM,)
12 25 Massachusetts Ave., NW, Suite 330,)
13 Washington, D.C. 20001,)

14 Plaintiff,)

15 v.)

16 LIBBY SCHAAF, MAYOR)
17 OF THE CITY OF OAKLAND, in)
18 her official capacity, OFFICE OF THE)
19 MAYOR OF THE CITY OF)
20 OAKLAND, and the CITY OF OAKLAND,))
21 1 FRANK H Ogawa Plaza,)
22 3rd Floor, Oakland, CA 94612,)

23 Defendants.)

24 VERIFIED PETITION FOR WRIT
25 OF MANDATE AND
26 COMPLAINT FOR
27 DECLARATORY AND
28 INJUNCTIVE RELIEF

(Code of Civ. Proc. §§ 526a, 1060,
1085; Gov't Code § 6250 *et seq.*)

COMPLAINT

Plaintiff Federation for American Immigration Reform (“FAIR”) brings this action under the Code of Civil Procedure § 1085 *et seq.* against Mayor Libby SchAAF of the City of Oakland, the Office of the Mayor of the City of Oakland, and the City of Oakland (collectively, the

1 “Defendant” or the “Mayor of Oakland”) to compel compliance with the California Public
2 Records Act (“CPRA”), Cal. Gov’t Code § 6250. Plaintiff alleges the following grounds:

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4 **PARTIES**

5 1. Plaintiff FAIR (“Plaintiff”) is a non-profit educational foundation organized under
6 the laws of the District of Columbia and having its principal place of business at 25
7 Massachusetts Ave., NW, Suite 330, Washington, DC 20001. Plaintiff seeks to educate the
8 citizenry on and increase public awareness of immigration issues, and hold the nation’s leaders
9 accountable for enforcing the nation’s immigration laws. In furtherance of its public interest
10 mission, Plaintiff regularly requests access to the public records of federal, state, and local
11 agencies, entities, and offices, and disseminates its findings to the public. Plaintiff as a member
12 of the public has the right under the CPRA to inspect public records and seek relief in a court of
13 competent jurisdiction to enforce that right. Cal. Gov’t Code §§ 6250 *et seq.*

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16 2. Defendant Mayor of Oakland is a government agency located in the state of California
17 and is a “local agency” within the meaning of the CPRA. Cal. Gov’t Code § 6252.

18 **JURISDICTION AND VENUE**

19 3. This Court has jurisdiction pursuant to sections 526a and 1085 of the Code of Civil
20 Procedure, section 6258 of the Government Code.

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22 4. Venue is proper in this court as the Defendants are a public official of the city of
23 Oakland and the city of Oakland, located in Alameda County. Cal. Code. Civ. P. §§ 393(b),
24 394(a), 395.

25 **FACTUAL ALLEGATIONS**

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27 5. On March 19, 2018, Plaintiff submitted a CPRA request by online CPRA portal to
28 the Office of the Mayor seeking access to the following public records:

- 1) Any and all records of communications, including but limited to emails, between City of Oakland Mayor Libby Schaaf; Chief of Staff Shereda Nosakhare; Director of Public Safety Venus D. Johnson; Director of Communications Justin Berton; and Police Chief Anne E. Kirkpatrick referring or relating to Immigration and Customs Enforcement or ICE from February 23, 2018 through February 24, 2018.
- 2) Any and all records of communications, including but limited to emails, between City of Oakland Mayor Libby Schaaf; Chief of Staff Shereda Nosakhare; Director of Public Safety Venus D. Johnson, Director of Communications Justin Berton; and Police Chief Anne E. Kirkpatrick referring or relating to the ICE raid or operation on the Bay Area from February 23, 2018 through February 24, 2018.

6. Plaintiff received an automatic reply through the online CPRA portal after submission giving the CPRA request the control number 18-19. The CPRA portal assigned the CPRA request the due date of March 29, 2018.

7. On April 2, 2018, Sun Kwong Sze, Special Projects Coordinator for the Office of the Mayor, wrote Plaintiff through the CPRA portal and stated: “We are in the process of working on your public record request. We expect to provide any responsive documents we may have within the next week.” No further response, or documents, has arrived.

8. On April 9, 2018, Plaintiff requested a status update in response to its request, but Defendant did not reply.

9. Pursuant to Cal. Gov’t Code § 6253 (c), the Mayor of Oakland was required, within ten days from the receipt of the request, to determine whether the request seeks copies of disclosable public records in the possession of the agency and promptly notify the person making the request of that determination and the reasons therefor. Accordingly, the Mayor of Oakland’s determination of Plaintiff’s CPRA request was due by March 29, 2018.

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17. The Defendant has acted and is continuing to act in violation of the CPRA by withholding public records requested by Plaintiff pursuant to Cal. Gov't Code § 6250 and ignoring the mandatory statutory deadline and notice requirements of Cal. Gov't Code §§ 6253(c)-(d).

18. An actual controversy exists between the parties concerning whether Defendant has violated the CPRA and a judicial determination is necessary and appropriate at this time.

THIRD CAUSE OF ACTION

(For Injunctive Relief, California Public Records Act, Gov't Code § 6250 et seq., Code of Civ. Proc. §§ 526a, Civ. Code § 3422)

19. Plaintiff realleges paragraphs 1 through 15 as if fully stated herein.

20. If not enjoined by order of the Court, the Mayor of Oakland will continue to unlawfully withhold public records requested under the CPRA and ignore statutory deadlines and notice requirements.

21. Plaintiffs do not have a plain, speedy, and adequate remedy in the ordinary course of law.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

- 1. For issuance of a writ of mandate compelling Mayor of Oakland to conduct a search for any and all records responsive to Plaintiff's CPRA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's CPRA request and produce those records to Plaintiff; or, in the alternative, an order to show cause issue why all or any of these public records should not be disclosed.

- 1 2. For a declaration that Defendant's failure to respond to Plaintiff's public records
2 requests violates the CPRA.
- 3 3. For an injunction enjoining Defendant from continuing to withhold any and all non-
4 exempt records responsive to Plaintiff's CPRA request.
- 5 4. For reasonable attorneys' fees and other litigation costs pursuant to Cal. Code of Civil
6 P. § 1021.5 and Gov't Code § 6259(d);
- 7 5. For such other relief as the Court deems just and proper.
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Dated: May 14, 2018

Respectfully submitted,



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