



E-Records Sent From Private Devices and Accounts Are Not Public Records Under CPRA

Burke Public Law Alert

The Court of Appeal for the Sixth District issued its decision Thursday, March 27th in the case of *City of San Jose v. Superior Court (Smith)*. In this case, a citizen had sought “voicemails, emails or text messages sent or received on private electronic devices” used by certain City officials under the California Public Records Act (“CPRA”). The City disclosed the responsive, nonexempt records sent from private devices using City accounts, but not records sent using personal accounts, on the grounds that records sent using personal accounts were not public records. Smith sued the City to compel disclosure of the records sent from private electronic devices using personal accounts.

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