



January 15, 2025

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City of Coachella

53990 Enterprise Way

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Re: Notice Regarding Preservation of Evidence Obligations and Duties

Dear Counsel, Officials, and Administrators:

Each of you and all staff of the City of Coachella have a **duty to preserve evidence relevant to claims referenced in the attached letter (Exhibit A), even in the absence of a court order.**

This includes all documents, tangible things, and electronically stored information. Further, it is the employer's duty to preserve all potentially relevant electronic data once notified of a potential claim, because electronic data may be an irreplaceable source of discovery.

Consistent with these duties, we hereby demand that the City and all officials preserve and maintain in a readily accessible format all data relating to the claims set forth in Exhibit A.

We also request that you observe the following safeguards:

Electronic Data to be Preserved

The following types of electronic data of your company and any subsidiaries, divisions, agents, or employees should be preserved in a readily accessible format:

1. All electronic mail (e-mail) and information about electronic mail (including message contents, headers, and logs of e-mail system usage) sent or received by anyone relating to the facts and violations cited in Exhibit A;
2. All text messages and information about text messages sent or received by anyone relating to the facts and violations cited in Exhibit A;
3. All databases, including field and structural information, as well as records containing any information relating to the facts and violations cited in Exhibit A;
4. All logs of activity on any computer systems which have been used to process or store data containing information relating to the facts and violations cited in Exhibit A;

5. All other electronic data containing information about or relating to the facts and violations cited in Exhibit A, including but not limited to:
 - a. All metadata;
 - b. All word processing files and fragments;
 - c. Electronic data created by applications which process financial, accounting, and billing information;
 - d. All electronic calendar and scheduling program files and file fragments; and
 - e. All electronic spreadsheet files and file fragments.

Online Data Storage

With regard to online storage and/or direct access storage devices attached to your computers, the City and all officials must not modify or delete any existing data files which meet the criteria set forth above, unless an exact copy has been made and will be preserved in an accessible format for purposes of any future litigation.

Offline Data Storage, Backups, and Archives

With regard to electronic media use for offline storage, such as magnetic tapes and cartridges, CDs, DVDs, and similar media used with any computer and which contain any electronic information relating to the facts and violations cited in Exhibit A, the City of Coachella and all officials must stop and prevent any activity which may result in the loss of such data. This request includes all removable electronic media used for data storage in any device containing backup and/or archive data sets.

Preservation of Replaced Data Storage Devices

The City and all officials must preserve all data storage devices, even those which have been or are replaced in the future, relating to the facts and violations cited in Exhibit A.

Fixed Drives on Stand-Alone Personal Computers and Network Workstations

The City and all officials must (1) not alter or erase any relevant electronic data that existed on fixed drives attached to stand-alone microcomputers and/or network workstations at the time of the events giving rise to the facts and violations cited in Exhibit A; (2) not perform other procedures such as data compression and disk defragmentation or optimization routines which may impact such data, unless: an exact copy has been made of such active files and of directory listings (including hidden files) for all directories containing such files, and you completely restore any deleted electronic file fragments and arrange for the preservation of all such data during the pendency of this litigation.

Applications and Utilities

The City and all officials must preserve copies of all applications and utilities that may be used to process electronic data relevant to the facts and violations cited in Exhibit A.

Log of System Modifications

The City and all officials must maintain an activity log of document modifications made to any electronic data processing system that may affect the system's capability to process any electronic data relating to the facts and violations cited in Exhibit A.

Personal Computers Used by Employees, Contractors, and Others Under the Company's Control

Please immediately take the following steps with regard to all the fixed drives attached to any personal computers used by anyone under the company's control:

1. Make an exact copy of all electronic data relating to the facts and violations cited in Exhibit A;
2. Write full directory listings (including hidden files) for all directories and subdirectories relating to the facts and violations cited in Exhibit A;
3. Collect, maintain intact, and keep available during the pendency of this litigation all removable electronic media, including but not limited to: USB drives; external hard drives; floppy diskettes, hard diskettes, magnetic tapes and cartridges, CDs, and DVDs.

Evidence Created After Receipt of this Letter

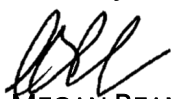
Any relevant electronic data created after receipt of this correspondence should be preserved in a manner consistent with the directions of this letter.

Consequences for Spoilation of Evidence

Evidence spoliation is the destruction or significant alteration of evidence or the failure to preserve evidence for another's use in pending or future litigation. *Williams v. Russ* (2008) 167 Cal. App. 4th 1215. The spoliation of evidence is consider an abuse of the discovery process in litigation, and is sanctionable by a wide range of punishments at the discretion of a judge, as well as the implementation of disciplinary proceedings against attorneys. *Cedar-Sinai Med. Ctr. V. Superior Court* (1998) 18 Cal. 4th 1, 12; Cal. Bus. & Prof. Code § 6106; Cal. Pen. Code § 135; Cal. Civ. Pro. Code §§ 2023.010(d); 2023.030(a)-(d).

Thank you for your attention to this matter.

Sincerely,



MEGAN BEAMAN JACINTO
BEAMAN JACINTO LAW P.C.

EXHIBIT A

**NOTICE TO CEASE AND DESIST
AND DEMAND TO CURE
PURSUANT TO RALPH M. BROWN ACT
CAL. GOV'T CODE §§ 54950 et seq.**

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Dear City of Coachella Officials and Administrators:

The Ralph M. Brown Act prohibits all persons—including elected officials—from disclosing confidential information that has been acquired in a public entity closed session. Cal. Gov't Code §§ 54963(a). In this context, "confidential information" means communications made in a properly agendized closed session discussion. Cal. Gov't Code § 54963(b). Any person who violates this requirement is subject to injunction, disciplinary action, and/or referral to a grand jury for criminal prosecution. Cal. Gov't Code § 54963(c). Moreover, the violating legislative body may be subject to additional court order such as rescission of the underlying decision, or mandatory recordings of future closed session meetings. Cal. Gov't Code §§ 54960; 54960.1.

Any interested person may file an action to seek remedies for these violations, as well as associated costs and attorney fees. Cal Gov't Code §§ 54960.2(a); 54960.5.

It has come to our attention that in the past 24 to 36 hours, if not for a longer period of time, **Coachella officials including but not limited to Steven Hernandez and Stephanie Virgen have made numerous impermissible disclosures and statements in violation of the Ralph M. Brown Act.** Known and documented disclosures include the following:

- Steven Hernandez told the Desert Sun that “Behind closed doors, the council opted by 3-2 votes to move forward with removing Martin and Campos from their positions.”¹
- Steven Hernandez told the Desert Sun that “Mayor Pro Tem Denise Delgado, along with Councilmembers Frank Figueroa and Yadira Perez, supported replacing the city manager and city attorney, while Hernandez and Councilmember Stephanie Virgen were opposed.”
- Steven Hernandez told the Desert Sun that “the move to replace Campos, who works for Best Best & Krieger, was finalized during the January 7 meeting. But the city is keeping the law firm – with a new lawyer being named Coachella’s city attorney—and thus wasn’t required to publicly report that decision.”
- Steven Hernandez told the Desert Sun that “the council was working to finalize its separation agreement with Martin.”
- Steven Hernandez told the Desert Sun that “You’re going to have three members of the executive team that are no longer there. The government is, in a sense, going to be like at a standstill.”
- Steven Hernandez is believed to have communicated with one or more local radio outlets regarding the confidential information identified above sometime between January 7, 2025 and the present.
- Stephanie Virgen posted a social media story sharing publicly the content of the Council’s previous closed session discussions and requesting support and public turnout in support of Martin and Campos.

It is believed that Hernandez and Virgen made additional disclosures of the same confidential information to innumerable individuals from approximately January 7, 2025 to present, in an effort to influence public comments and/or otherwise influence the Council’s final vote on January 14, 2025. In turn, those individuals shared the confidential information with others, creating a ripple of dissemination throughout the region. These disclosures unquestionably violate the Brown Act.

¹ All references to communications with the Desert Sun are evidenced in the article entitled, “Divided Coachella council moves to fire city manager; mayor opposed,” by Tom Coulter, Jan. 13, 2025.

As well, following the public comment period in the January 14, 2025 Special Meeting, Hernandez and Virgen both made responsive comments. Because there was no public agenda item regarding the personnel decision to be considered in closed session (for good reason, given the confidentiality of such matters), the responsive comments of Hernandez and Virgen violated the Brown Act as well. Cal. Gov't Code § 54954.2.

It is our sincere hope that the City will take immediate action to cure these violations by retracting violative statements and issuing public apology. Even more importantly, we demand and expect that the City and all City officials will properly observe and comply with their obligations in the future, in all spaces and at all times.

Please contact us at your convenience to communicate the City's plan to remedy these violations, so that we may determine with our clients whether any further legal action will be necessary.

Our best regards,



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