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14 Attorneys for Petitioner AMERICA FIRST LEGAL  
15 FOUNDATION

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
17 **FOR THE COUNTY OF LOS ANGELES**

18 AMERICA FIRST LEGAL  
19 FOUNDATION, a Delaware non-profit  
20 corporation,

21 Petitioner,

22 vs.

23 THE REGENTS OF THE UNIVERSITY  
24 OF CALIFORNIA; and ROBERT  
25 BALDRIDGE, in his capacity as Manager  
26 of the UCLA Records Management and  
27 Information Practices,

28 Respondents.

**Case No.: 22STCP00528**

**VERIFIED PETITION FOR WRIT OF  
MANDATE [CCP § 1085] AND COMPLAINT  
FOR DECLARATORY AND INJUNCTIVE  
RELIEF [GOV'T CODE § 6250 ET SEQ.]**

JW HOWARD/ ATTORNEYS, LTD.  
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SAN DIEGO, CALIFORNIA 92101

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Petitioner America First Legal Foundation alleges as follows:

**PARTIES, JURISDICTION AND VENUE**

- 1. Petitioner America First Legal Foundation is a 501(c)(3) non-profit corporation formed under the laws of the State of Delaware.
- 2. Respondent Regents of the University of California (“Regents”) is a political subdivision of the State of California responsible for overseeing all activities at the University of California’s campuses, including the University of California at Los Angeles (“UCLA”). Under state law, the Regents have the capacity to sue and be sued for actions that take place at UCLA.
- 3. Respondent Robert Baldrige is sued herein in his official capacity as the Manager of UCLA’s Records Management and Information Practices.
- 4. The Court has jurisdiction over this matter pursuant to Code of Civil Procedure section 1085 and Government Code section 6258, a provision in the California Public Records Act (“PRA”) that says any person may institute proceedings for injunctive or declarative relief, or for writ of mandate, to compel the production of public records from a government agency.
- 5. Venue exists Los Angeles County under sections 393 and 394 of the Code of Civil Procedure because the actions complained of occurred in this County and because UCLA is located here.

**FACTUAL ALLEGATIONS**

- 6. E. Tendayi Achiume is a professor at the UCLA School of Law. Since 2017, she has also served as the United Nations’ Special Rapporteur on contemporary forms of racism.
- 7. Last July, Secretary of State Antony Blinken invited Professor Achiume, and other U.N. experts, to make an official visit to study racism in the United States.
- 8. This invitation was controversial, as Professor Achiume is a proponent of Critical Race Theory and supports opening borders to all migrants to compensate for America’s past colonization efforts.
- 9. Following Secretary Blinken’s invitation, Petitioner sent UCLA a request for documents under the PRA on August 10, 2021. A true and correct copy of this request is attached as **Exhibit “A.”**

- 1           10.    The PRA request sought four categories of documents:
- 2               •    Communications between Professor Achiume and certain government employees
- 3               (identified by email suffixes such as “eop.gov” and “state.gov”) between November
- 4               1, 2020, and August 10, 2021 (Category A);
- 5               •    Records related to Secretary Blinken’s invitation to Professor Achiume, including
- 6               emails with government and non-profit/non-governmental organizations between
- 7               November 1, 2020, and August 10, 2021 (Category B);
- 8               •    Records related to any investigation, analysis or work product Professor Achiume
- 9               prepared regarding racism in the United States between November 1, 2020, and
- 10              August 10, 2021 (Category C); and
- 11              •    Communications between UCLA officials and specific groups (such as Black Lives
- 12              Matter and the ACLU) between November 1, 2020, and August 10, 2021 (Category
- 13              D).

14           11.    The request offered to provide information necessary to clarify the requests or narrow

15    their scope.

16           12.    Despite this offer, Respondent Baldrige responded to Petitioner’s PRA request on

17    October 28, 2021. He refused to provide any documents in response to the Categories A through C,

18    claiming that “[d]ocuments containing information about activities of University employees not

19    substantively related to the conduct of University business do not constitute public records ...” Mr.

20    Baldrige also asserted, without support, that some of the documents are shielded by the attorney-

21    client privilege and other, unidentified, federal laws. He also cited the PRA’s catch-all exemption

22    and argued that disclosing any responsive records “could endanger individuals who communicate

23    with [Professor Achiume] and interfere with this work.” A true and correct copy of this response

24    letter is attached as **Exhibit “B.”**

25           13.    Mr. Baldrige did not refuse to produce documents in response to Category D but, to

26    date, no records have been produced.

27           14.    Petitioner has tried to convince Respondents that their positions regarding the

28    application of the PRA to this situation lack merit. Those efforts have not succeeded. Therefore,

1 Petitioner seeks judicial intervention.

2 **FIRST CAUSE OF ACTION**

3 **(Writ of Mandate)**

4 15. Petitioner incorporates the preceding paragraphs of this Petition as though set forth  
5 fully herein.

6 16. Government Code section 6253(a), a part of the PRA, requires that a public agency  
7 allow inspection of public records by any person requesting the records. The PRA defines public  
8 records broadly. It also requires that any reasonably segregable portion of a record be available for  
9 inspection after deletion of the portions that are exempted by law. A public record that contains only  
10 some exempt or confidential information cannot be withheld entirely.

11 17. Under Government Code section 6255, the government can withhold records only by  
12 “demonstrating that the record in question is exempt under express provisions of this chapter or that  
13 on the facts of the particular case the public interest served by not disclosing the record clearly  
14 outweighs the public interest served by disclosure of the record.”

15 18. Petitioner has a right under the PRA to obtain the documents sought in Categories A  
16 through D of its request. Respondents have an obligation to produce them.

17 19. The records Petitioner seeks are not subject to any specific exemptions to the PRA,  
18 apart from catch-all exemption’s balancing test, which is construed narrowly.

19 20. Petitioner contends that Respondents violated the PRA and abused their discretion in  
20 finding that the documents Petitioner sought in Categories A through C are not public records.  
21 Petitioner also contends that Respondents violated the PRA and abused their discretion in asserting  
22 generalized exemptions such as “protected by federal law” and by failing to produce any documents  
23 in response to Category D.

24 21. Petitioner does not have a plain, speedy and adequate remedy at law and thus seeks  
25 mandamus relief to compel Respondents to comply with their duties under the PRA. The PRA  
26 authorizes courts to issue a writ of mandate pursuant for this purpose.

27 22. Section 6259(a) of the Government Code provides that the Court shall decide the case  
28 after examining the record(s) in camera, if permitted by subdivision (b) of Section 915 of the

1 Evidence Code. Petitioner requests that the Court do so.

2 23. Petitioner is entitled to recover its costs and attorneys' fees under the PRA and  
3 section 1021.5 of the California Code of Civil Procedure.

4 **SECOND CAUSE OF ACTION**

5 **(Declaratory and Injunctive Relief)**

6 24. Petitioner incorporates the preceding paragraphs of this Complaint as though set forth  
7 fully herein.

8 25. Petitioner contends that it has a right under the PRA to obtain the documents sought  
9 in Categories A through D of its request and that Respondents have an obligation to produce them.  
10 Petitioner also contends that, when asserting exemptions from disclosure, Respondents have a duty  
11 to "demonstrat[e] that the record in question is exempt under express provisions of this chapter or  
12 that on the facts of the particular case the public interest served by not disclosing the record clearly  
13 outweighs the public interest served by disclosure of the record." Exemptions cannot be asserted in a  
14 conclusory manner.

15 26. Petitioner contends that Respondents violated these duties, as alleged above.

16 27. On information and belief, Respondents contend that they do not have an obligation  
17 to produce the records requested in Categories A through D. Respondents further contend that they  
18 do not have an obligation to be specific when claiming exemptions under the PRA and that have not  
19 violated the PRA.

20 28. Petitioner seeks a judicial declaration that Respondents violated their duties under the  
21 PRA, as alleged above.

22 29. A judicial determination of these issues is necessary and appropriate because such a  
23 declaration will clarify the parties' rights and obligations, permit them to have certainty regarding  
24 those rights and potential liability, and avoid a multiplicity of actions.

25 30. Petitioner does not have a plain, speedy and adequate remedy at law and thus seeks  
26 injunctive relief to compel Respondents to comply with their duties under the PRA. The PRA  
27 authorizes courts to issue this relief for this purpose.

28 31. Petitioner is entitled to recover its costs and attorneys' fees under the PRA and

1 section 1021.5 of the California Code of Civil Procedure.

2 **PRAYER FOR RELIEF**

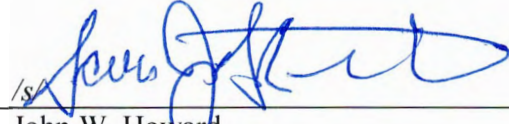
3 Wherefore, Petitioner prays for relief as follows:

- 4 1. For a writ of mandate compelling Respondents to comply with Petitioner’s request for  
5 documents under the PRA;
- 6 2. For declaratory relief that Respondents violated the PRA by withholding documents  
7 that were responsive to Petitioner’s PRA request and for related injunctive relief;
- 8 3. For costs and attorneys’ fees under section the PRA and section 1021.5 of the  
9 California Code of Civil Procedure; and
- 10 4. For such other relief that the Court determines is just and proper.

11 JW HOWARD/ ATTORNEYS, LTD.

12 Dated: February 9, 2022

13 By:

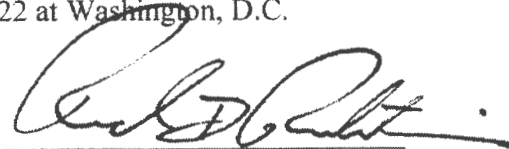
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15 John W. Howard  
16 Scott J. Street  
17 Attorneys for Petitioner AMERICA FIRST  
18 LEGAL FOUNDATION  
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VERIFICATION

I, Reed D. Rubinstein, am Senior Counselor and Director of Oversight and Investigations of Petitioner America First Legal Foundation. I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief. The matters stated therein are true of my own knowledge except those matters stated on information and belief, which I am informed and believe to be true.

Executed this 9th day of February 2022 at Washington, D.C.



Reed D. Rubinstein

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# **EXHIBIT “A”**





August 10, 2021

UCLA Records Management &  
Information Practices  
10920 Wilshire Blvd., Suite 530  
Los Angeles, CA 90024

**CPRA Request: Professor E. Tendayi Achiume**

To whom it may concern:

This is a request for public records pursuant to the California Public Records Act, California Government Code § 6250 et seq. (“CPRA”), and Article I, § 3(b) of the California Constitution of and/or relating to Professor E. Tendayi Achiume (“Achiume”) of the UCLA School of Law:

- A. All communications, including attachments, between Professor Achiume and any email address ending in “eop.gov”, “state.gov”, “usdoj.gov” and/or “un.org”. The time frame for this request is November 1, 2020, to August 10, 2021.
- B. All public records of, regarding, referring, or related to Secretary of State Blinken’s invitation to Professor Achiume referenced at <https://www.state.gov/u-s-leadership-on-human-rights-and-ending-systemic-racism/>. This shall include all communications, including attachments, with government employees or persons affiliated with non-profit or non-governmental organizations. The time frame for this request is November 1, 2020, to August 10, 2021.
- C. All public records of, regarding, referring, or relating to any analysis, document, investigation, report, or other work product Professor Achiume may endorse, edit, prepare, receive, review, sign, submit, or transmit with respect to the United States. The time frame for this request is November 1, 2020, to August 10, 2021.
- D. All communications with any person, as defined at California Government Code § 6252(c), affiliated with any of the following organizations:
  1. Black Lives Matter
  2. American Civil Liberties Union
  3. National Association for the Advancement of Colored People
  4. NAACP Legal Defense and Educational Fund

5. Abolitionist Teaching Network
6. Movement for Black Lives
7. Southern Poverty Law Center

The time frame for this request is November 1, 2020, to August 10, 2021.

If you contend that any portion of the records requested is exempt from disclosure by express provisions of law, Government Code § 6253(a) requires segregation and redaction of that material in order that the remainder of the records may be released. If you contend that any express provision of law exists to exempt from disclosure all or a portion of the records I have requested, Government Code § 6253(c) requires that you notify me of the reasons for the determination not later than 10 days from your receipt of this request. Government Code §§ 6253(d) & 6255(b) require that any response to this request that includes a determination that the request is denied, in whole or in part, must be in writing and include the name and title of the person(s) responsible for the City's response.

Government Code § 6253(d) prohibits the use of the 10-day period, or any provisions of the CPRA or any other law, "to delay access for purposes of inspecting public records."

In responding to this request, please keep in mind that Article 1, § 3(b)(2) of the California Constitution expressly requires you to broadly construe all provisions that further the public's right of access, and to apply any limitations on access as narrowly as possible.

If I can provide any clarification that will help expedite your attention to my request, please contact me at FOIA@aflegal.org, pursuant to Government Code § 6253.1. I ask that you notify me of any duplication costs exceeding \$25 before you duplicate the records so that I may decide which records I want copied.

Sincerely,

/s/ Gene P. Hamilton  
Gene P. Hamilton  
America First Legal Foundation

# **EXHIBIT “B”**



INFORMATION PRACTICES  
10920 WILSHIRE BOULEVARD, SUITE 107  
LOS ANGELES, CA 90024-6543

VIA EMAIL

October 28, 2021

Gene P. Hamilton  
America First Legal Foundation  
Email: foia@aflegal.org

**RE: Public Records Request - PRR # 21-9237**

Dear Mr. Hamilton:

We have reviewed your California Public Records Act (CPRA) request, herein enclosed, which seeks:

- A. All communications, including attachments, between Professor Achiume and any email address ending in “eop.gov”, “state.gov”, “usdoj.gov” and/or “un.org”. The time frame for this request is November 1, 2020, to August 10, 2021.**
- B. All public records of, regarding, referring, or related to Secretary of State Blinken’s invitation to Professor Achiume referenced at <https://www.state.gov/u-s-leadership-on-human-rights-and-ending-systemic-racism/>. This shall include all communications, including attachments, with government employees or persons affiliated with non-profit or nongovernmental organizations. The time frame for this request is November 1, 2020, to August 10, 2021.**
- C. All public records of, regarding, referring, or relating to any analysis, document, investigation, report, or other work product Professor Achiume may endorse, edit, prepare, receive, review, sign, submit, or transmit with respect to the United States. The time frame for this request is November 1, 2020, to August 10, 2021.**
- D. All communications with any person, as defined at California Government Code § 6252(c), affiliated with any of the following organizations:**
  - a. Black Lives Matter**
  - b. American Civil Liberties Union**
  - c. National Association for the Advancement of Colored People**
  - d. NAACP Legal Defense and Educational Fund**
  - e. Abolitionist Teaching Network**
  - f. Movement for Black Lives**
  - g. Southern Poverty Law Center**

**The time frame for this request is November 1, 2020, to August 10, 2021.**

Documents called for by parts A, B, and C of your request are exempt from release based upon the following:

- The records sought have been determined not to fall within the definition of public records. A “public record” is a writing that relates “to the conduct of the public’s business.” Cal. Gov’t Code § 6252(e). Documents containing information about activities of University employees not substantively related to the conduct of University business do not constitute public records under this definition. “Unless the writing is related ‘to the conduct of the public’s business’ and is

‘prepared, owned, used or retained by’ a public entity, it is not a public record under the CPRA and its disclosure would not be governed by the Act.” *Regents of the University of California v. Superior Court* (2013) 222 Cal. App. 4th 383, 399;

- Some of the records sought are protected by the attorney-client privilege, pursuant to California Evidence Code § 950 et seq. and California Code of Civil Procedure § 2018, as incorporated into the CPRA through Government Code § 6254(k);
- Some of the records sought are protected by federal law as incorporated into the CPRA through Government Code § 6254(k); and
- In addition, some of the records sought are exempt pursuant to Government Code § 6255(a). Where the public interest served by not disclosing a record clearly outweighs the public interest served by disclosure, such records need not be produced. Under the balancing of public interests, we have concluded that the public interest favoring nondisclosure of the requested records outweighs the public interest in disclosure. Release of the records, which include names and reports of human rights and other abuses, could endanger individuals who communicate with the Special Rapporteur and interfere with this work.

With respect to part D, UCLA continues to work on this portion of your request, and we will provide a further response as soon as possible. Should you have any questions, please contact our office at (310) 794-8741 or via email at [records@ucla.edu](mailto:records@ucla.edu) and reference the PRR number found above in the subject line.

Sincerely,



**Robert Baldridge**

Manager, Records Management & Information Practices  
(310) 794-8741 | (310) 794-8961 (fax) | [records@ucla.edu](mailto:records@ucla.edu)