

California Supreme Court to Consider Whether Public Officials Are Required to Disclose Private Communications

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The California Supreme Court will decide whether certain private emails and other electronic communications of public officials are subject to disclosure under the Public Records Act. The Court granted review in *City of San Jose v. Superior Court (Smith)*, No. S218066 in an order issued on June 26, 2014.

Earlier this year the California Court of Appeal held that the Public Records Act does not require public officials and employees to publicly disclose communications sent or received on their personal devices using private accounts. A member of the public had asserted the right to inspect certain communications of city officials and staff members, including those transmitted on personal electronic devices using private accounts. Those messages – voicemails, emails, and texts – concerned city business but were not stored on city servers and were not directly accessible by the city.

The California Court of Appeal ruled that disclosure was not required by the Public Records Act as the statute is currently written. Last week, the California Supreme Court agreed to hear the case. As a result, the California Court of Appeal's decision no longer can be relied upon as legal precedent.

If you have questions, or would like more information, please contact Gina Stinnet or any member of our Public Law Department.