

The Honorable Suzanne R. Parisien  
Noted for Hearing: March 13, 2023  
Without Oral Argument

SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

STACY IRWIN and KIMBERLY FERREIRO,

Plaintiffs,

v.

CITY OF SEATTLE, a municipal corporation  
under the laws of the State of Washington,

Defendant.

NO. 21-2-11739-9 SEA

**CITY OF SEATTLE'S MOTION FOR  
LEAVE TO FILE DECLARATION IN  
SURREPLY**

1 **DEFENDANT CITY OF SEATTLE'S**  
2 **MOTION FOR LEAVE TO FILE DECLARATION IN SUR-REPLY**

3 Plaintiffs filed an unnecessary motion to compel the City of Seattle to provide address  
4 or agent information for the service of a deposition subpoena on former Mayor Durkan. They  
5 raised the issue in late September 2022, and then tabled it to instead argue that depositions  
6 *should not* proceed until they received the City's privileged information at issue in certain  
7 motions. Plaintiffs then pursued staying the case. Earlier this month, the Court of Appeals  
8 denied Plaintiffs' stay motion. Shortly thereafter, Plaintiffs inquired about service information  
9 for Ms. Durkan, and the City initiated outreach to confirm authorization for the acceptance of  
10 service. On February 9, the City let Plaintiffs know that they had done so and would be back to  
11 them shortly. Rather than responding to the City or conferring at all as required by CR 26(i),  
12 Plaintiffs filed their motion to compel not even three business days later. They refused to  
13 withdraw their motion after the City was able to confirm and let Plaintiffs know that they could  
14 contact attorney G. William Shaw of K&L Gates as an agent for Ms. Durkan.

15 In their Reply brief, Plaintiffs now accuse the City of "misleading the Court" and ask  
16 for new relief – Rule 11 sanctions – based upon this new accusation. Plaintiffs make this claim  
17 by filing a new declaration, to which they knew the City would not have an opportunity to  
18 respond. In it, Plaintiffs' claim that Mr. Shaw told the City's counsel he was authorized to  
19 accept service for Ms. Durkan "in the past—at least weeks ago." (Sub No. 129, 4:10-12, Sub  
20 No. 130 at ¶7.) Plaintiffs' assertion is false. Plaintiffs' counsel either misunderstood or is  
21 misrepresenting her discussion with Mr. Shaw. (*Compare* Sub No. 129 at 2:13-21 *with*  
22 Declaration of G. William Shaw, dated February 27, 2023.) As Mr. Shaw makes clear, he did  
23 not say this to Plaintiff's counsel. (*Id.* at ¶7.) Instead, even as of February 14, whether Mr.  
24 Shaw was authorized to accept service for Ms. Durkan was in flux and he was in the process of  
25 confirming his authorization with Ms. Durkan. (*Id.* at ¶9.) In no way was the City somehow  
26 intentionally concealing service information from Plaintiffs; the evidence demonstrably shows

1 otherwise. (See Sub No. 127 at ¶¶2-5, 8-11, Exhibits A-C, F-H; Sub No. 126 at ¶¶2-7, Exhibits  
2 J-M; Declaration of G. William Shaw, dated February 27, 2023 at ¶¶3-9.)

3 The City respectfully asks the Court for leave to file the attached Declaration of Mr.  
4 Shaw to correct Plaintiffs' assertions they put into the record with their Reply.

5 DATED: February 28, 2023.

6  
7 **SAVITT BRUCE & WILLEY LLP**

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20 *Attorneys for Defendant City of Seattle*

21 *I certify that this memorandum contains 435 words,*  
22 *in compliance with the Local Civil Rules.*

1 **CERTIFICATE OF SERVICE**

2 I hereby declare under penalty of perjury under the laws of the State of Washington that  
3 on this date, I caused a true and correct copy of the foregoing document to be served on the  
4 following in the manner(s) indicated:

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21 *Attorney for Plaintiffs*

22 DATED this 28<sup>th</sup> day of February, 2023 at Seattle, Washington.

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Meghan Parker