

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

STACY IRWIN and KIMBERLY FERREIRO,

Plaintiffs,

v.

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

Defendant.

Case No. 21-2-11739-9 SEA

**DECLARATION OF SUSAN B.
MINDENBERGS IN SUPPORT
OF PLAINTIFFS' MOTION FOR
SANCTIONS**

Susan B. Mindenbergs does hereby declare under penalty of perjury under the laws of the State of Washington that the following is true and correct, that I am over the age of 18 years and competent to testify to matters in this case, and that I do so from personal knowledge:

1. I represent Plaintiffs Stacy Irwin and Kimberly Ferreiro in the above-entitled action with my co-counsel, Jeffrey L. Needle.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the email I received on February 14, 2023, at 6:56 p.m., from opposing counsel identifying G. William Shaw of K&L Gates as the person authorized to accept service of process for former Mayor Jenny Durkan.

3. On February 15, 2023, I left a voicemail for former Mayor Durkan's attorney G. William Shaw indicating I wanted to set a date for Ms. Durkan's deposition. That same afternoon, I

1 transmitted an email to Mr. Shaw requesting dates for Ms. Durkan's deposition.

2 4. On February 16, 2023, Mr. Shaw returned my telephone call concerning available
3 deposition dates for Ms. Durkan and would get back to me about a date for her deposition as she
4 was on vacation. During our telephone call, Mr. Shaw informed me that Defendant's counsel had
5 been notified of his authority to accept service of process for Ms. Durkan in the past—"at least
6 weeks" prior to speaking with me.

7 5. On February 16, 2023, I sent a follow-up email to Mr. Shaw memorializing our
8 telephonic conference and concerning Ms. Durkan's deposition availability. Attached hereto as
9 **Exhibit 2** is a true and correct copy of the email I sent to Mr. Shaw on February 16, 2023.

10 6. Mr. Shaw never responded to my email dated February 16, 2023, concerning Ms.
11 Durkan's deposition availability.

12 7. On February 27, 2023, I emailed Mr. Shaw seeking available dates for the Durkan
13 deposition. This was my fifth attempt in contacting Mr. Shaw for Ms. Durkan's availability.
14 Attached hereto as **Exhibit 3** is a true and correct copy of the email I sent on February 27, 2023.

15 8. I did not receive a response to my email of February 27, 2023, from Mr. Shaw until
16 March 20, 2023.

17 9. Attached hereto as **Exhibit 4** is a true and correct copy of the email I received on
18 March 20, 2023, from attorney G. William Shaw regarding Ms. Durkan's deposition.

19 10. Mr. Shaw did not seek and did not engage in a discovery conference pursuant to CR
20 26(i) prior to filing the motion to quash/protective order.

21 11. Attached hereto as **Exhibit 5** is a true and correct copy of the email I received on
22 March 25, 2023, from attorney G. William Shaw regarding Ms. Durkan's deposition availability.

23 12. Attached hereto as **Exhibit 6** is a true and correct copy of the Notice of Appearance
24 filed by K&L Gates LLP on behalf of the Defendant, City of Seattle, dated October 8, 2020, in the
25 case entitled *Taylor, et al. v. City of Seattle*, Case No. 20-2-14351-1 SEA.

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on April 4, 2023, the undersigned caused a true and correct copy of the
3 foregoing document to be served in the manner indicated below upon the following individual(s):

4 James P. Savitt, WSBA #16847
5 Brandi B. Balanda, WSBA #48836
6 Sarah Gohmann Bigelow, WSBA #43634
7 SAVITT BRUCE & WILLEY LLP
8 1425 Fourth Avenue, Suite 800
9 Seattle, WA 98101-2272
10 Telephone: (206) 749-0500
11 Facsimile: (206) 749-0600
12 Email: jsavitt@sbwllp.com
13 Email: bbalanda@sbwllp.com
14 Email: sgohmannbigelow@sbwllp.com
15 *Attorneys for Defendant*

- Legal Messenger
- Facsimile
- Electronic Mail
- USPS First Class Mail
- UPS Shipping
- Court eFiling/eService

11 G. William Shaw, WSBA #8573
12 Benjamin C. Woodruff, WSBA #56618
13 Emaan R. Jaberri, WSBA #56990
14 K&L Gates LLP
15 925 Fourth Avenue, Suite 2900
16 Seattle, WA 98104-1158
17 Telephone: (206) 623-7580
18 Facsimile: (206) 623-7022
19 Email: Bill.Shaw@klgates.com
20 Email: Ben.Woodruff@klgates.com
21 Email: Emaan.Jaberri@klgates.com
22 *Attorneys for Jenny A. Durkan*

- Legal Messenger
- Facsimile
- Electronic Mail
- USPS First Class Mail
- UPS Shipping
- Court eFiling/eService

19 The foregoing statement is made under the penalty of perjury under the laws of the State of
20 Washington and is true and correct.

21 DATED this 4th day of April 2023.

22 By: /s/ Christine A. Tobin
23 Christine A. Tobin, *Paralegal*
24 Law Office of Susan B. Mindenbergs
25 705 Second Avenue, Suite 1050
26 Seattle, WA 98104
Email: christine@sbmlaw.net

Declaration of Susan B. Mindenbergs

Exhibit 1

From: Brandi Balanda <bbalanda@sbwllp.com>
Sent: Tuesday, February 14, 2023 6:57 PM
To: susanmm@msn.com
Cc: James Savitt; Sarah Gohmann Bigelow; 'Jeffrey Needle'; jneedlel@wolfenet.com; Lonnie Lopez; Christine Tobin
Subject: Re: Irwin et al v. City of Seattle: Depositions

Susan,

Further to my email below, we have been able to confirm that Mr. William Shaw of K&L Gates (<https://www.klgates.com/G-William-Shaw>) is authorized to accept service of a deposition subpoena on former Mayor Jenny Durkan for this matter. As I wrote to you below on Thursday afternoon, we were in the process of outreach regarding this service issue. We were surprised to see the motion to compel you filed this afternoon, especially given you did not contact us first or at all in response to my Thursday email (let alone meet and confer before filing that motion as required by the rules.) In fact, you ignored a separate request we made to you on Thursday to have a phone call about discovery matters on Friday or yesterday. Had you done so, we would have provided a further update and you would have seen that such a motion is unnecessary. I also note that although Plaintiffs initially reached out regarding contact information to serve former Mayor Durkan in the fall, Plaintiffs then took the position that depositions should *not* proceed and the case should instead be stayed. We promptly responded to your recent request for service information.

Please confirm that you will contact the Court tomorrow to withdraw the motion.

Thank you,

BRANDI B. BALANDA | SAVITT BRUCE & WILLEY LLP
Joshua Green Building | 1425 Fourth Avenue, Suite 800 | Seattle, WA 98101-2272 | Tel: 206/749-0500 | Fax: 206/749-0600 | www.SBWLLP.com

Privileged and Confidential: Please be advised that this message may contain information that is private and legally privileged. If you are not the person for whom this message is intended, please delete it and notify me immediately of the error. Please do not copy or send this message to anyone else. Thank you for your cooperation.

From: Brandi Balanda <bbalanda@sbwllp.com>
Date: Thursday, February 9, 2023 at 3:14 PM
To: "susanmm@msn.com" <susanmm@msn.com>
Cc: James Savitt <jsavitt@sbwllp.com>, Sarah Gohmann Bigelow <sgohmannbigelow@sbwllp.com>, 'Jeffrey Needle' <jneedle@jneedlelaw.com>, "jneedlel@wolfenet.com" <jneedlel@wolfenet.com>
Subject: Irwin et al v. City of Seattle: Depositions

Susan,

Below is an update in response to your Monday email about availability for certain witness depositions:

- We represent Mike Fong. Mr. Fong can be available for a deposition on March 8, March 10, March 15, or March 17. We will accept service of a deposition notice to him upon agreement as to date and time.

- We represent Stephanie Formas. Ms. Formas recently gave birth and we will need to schedule her deposition to accommodate related issues, such as pumping needs. If it will be a half day deposition, Ms. Formas can be available on March 24, March 29, or March 31. If it is going to be a full day, we will need to look at weekend dates. Please advise. We will accept service of a deposition notice to Ms. Formas upon agreement as to date and time.
- Regarding Michelle Chen, she is represented by Darwin Roberts. It seems we should get from him Ms. Chen's availability and then we can cross-check with our calendars.
- Regarding a CR 30(b)(6) witness, we need to know the topics to enable us to select the witness and then provide availability for them.
- Regarding former Mayor Durkan, we are working on outreach regarding service of a deposition subpoena and will get back to you shortly.

BRANDI B. BALANDA | SAVITT BRUCE & WILLEY LLP

Joshua Green Building | 1425 Fourth Avenue, Suite 800 | Seattle, WA 98101-2272 | Tel: 206/749-0500 | Fax: 206/749-0600 | www.SBWLLP.com

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Declaration of Susan B. Mindenbergs

Exhibit 2

From: Susan Mindenbergs <susanmm@msn.com>
Sent: Thursday, February 16, 2023 10:38 AM
To: Shaw, Bill
Cc: Jeffrey Needle
Subject: Re: Jenny Durkan [KLG-USW_Active01.FID1393498]

Thanks Bill. I look forward to getting a couple of alternative dates from you for Mayor Durkan's deposition. Because of the number of lawyers involved, it would be best if you could give me as many dates as possible.

As for my question to you about when you heard from Savitt Bruce, the City's lawyers, about Mayor Durkan's deposition, I understand you to say that you heard in the past—at least weeks ago. I do understand also that you weren't sure of the date, but that you'd take a look to see if you could resurrect it. Thanks again.

Susan B. Mindenbergs
Attorney at Law
705 Second Avenue, Suite 1050
Seattle, WA 98104
Phone: (206) 447-1560

This communication may contain information that is confidential and/or protected by attorney-client privilege. It was intended only for the named recipient. If you have received this communication in error, please delete it immediately and contact the sender to advise them of improper delivery.

From: Shaw, Bill <bill.shaw@klgates.com>
Sent: Thursday, February 16, 2023 10:13 AM
To: Susan Mindenbergs <susanmm@msn.com>
Subject: RE: Jenny Durkan [KLG-USW_Active01.FID1393498]

Hello Susan -

Thank you for taking my call.
I look forward to working with you.

Sincerely,

Bill



G. William Shaw
(pronouns - he, him) [i](#)
K&L| Gates
925 Fourth Avenue , Suite 2900
Seattle, Washington 98104
Voice: - (206) 370-7955

Cell: - (206) 419-7137

Fax: - (206) 370-6169

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From: Susan Mindenbergs <susanmm@msn.com>

Sent: Wednesday, February 15, 2023 1:28 PM

To: Shaw, Bill <bill.shaw@klgates.com>

Subject: Jenny Durkan

Hi Bill,

I represent the Plaintiffs in the case *Irwin v. City of Seattle*. The Plaintiffs are former Public Record Officers who worked in Mayor Jenny Durkan's office. I understand you represent former Mayor Durkan. Please give me a call so we can set a time and date for her deposition in this matter. You can reach me at 206-310-0616.

Thank you,

Susan B. Mindenbergs

Attorney at Law

705 Second Avenue, Suite 1050

Seattle, WA 98104

Phone: (206) 447-1560

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Declaration of Susan B. Mindenbergs

Exhibit 3

Subject: Jenny Durkan

Date: Monday, February 27, 2023 at 11:15:37 AM Pacific Standard Time

From: Susan Mindenbergs <susanmm@msn.com>

To: Shaw, Bill <bill.shaw@klgates.com>

CC: Jeffrey Needle <jneedle@jneedlelaw.com>, Christine Tobin (christine@sbmlaw.net) <christine@sbmlaw.net>, Lonnie Lopez <lrlopez.paralegal@gmail.com>

Hi Bill,

Please let me know dates that you and Ms. Durkan are available for a deposition. It would be helpful to get those dates as soon as possible so we can coordinate with the City's lawyers.

Thanks for your help.

Susan B. Mindenbergs
Attorney at Law
705 Second Avenue, Suite 1050
Seattle, WA 98104
Phone: (206) 447-1560

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Declaration of Susan B. Mindenbergs

Exhibit 4

From: Shaw, Bill <bill.shaw@klgates.com>
Sent: Monday, March 20, 2023 3:31 PM
To: Susan Mindenbergs; Brandi Balanda; JAMES P. SAVITT (jsavitt@sbwillp.com)
Cc: Jeffrey Needle; Christine Tobin; Lonnie Lopez
Subject: RE: Jenny Durkan [KLG-USW_Active01.FID1393498]

Hello Susan -


I don't know what the discovery cutoff date is for this case. What I do know is that Former Mayor Durkan has been out of town on vacation and will be through the end of March and into early April.

In the meantime, later today we are going to be filing an Apex motion to preclude Ms. Durkan's deposition. That motion will be noted for March 28, 2023. We are agreeable to re-scheduling that motion for a date that better works for you and the court's schedule. I hope to be able to connect with Ms. Durkan later this week so that depending on the Apex motion we could work out a provisional date for her deposition, if required.

Thank you,

Bill



G. William Shaw
(pronouns - he, him) 
K&L| Gates
925 Fourth Avenue , Suite 2900
Seattle, Washington 98104
Voice: - (206) 370-7955
Cell: - (206) 419-7137
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From: Susan Mindenbergs <susanmm@msn.com>
Sent: Monday, February 27, 2023 11:16 AM
To: Shaw, Bill <bill.shaw@klgates.com>
Cc: Jeffrey Needle <jneedle@jneedlelaw.com>; Christine Tobin (christine@sbmlaw.net) <christine@sbmlaw.net>; Lonnie

Lopez <lrlopez.paralegal@gmail.com>

Subject: Jenny Durkan

Hi Bill,

Please let me know dates that you and Ms. Durkan are available for a deposition. It would be helpful to get those dates as soon as possible so we can coordinate with the City's lawyers.

Thanks for your help.

Susan B. Mindenbergs
Attorney at Law
705 Second Avenue, Suite 1050
Seattle, WA 98104
Phone: (206) 447-1560

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Declaration of Susan B. Mindenbergs

Exhibit 5

From: Shaw, Bill <bill.shaw@klgates.com>
Sent: Saturday, March 25, 2023 10:48 AM
To: Susan Mindenbergs; Brandi Balanda; JAMES P. SAVITT (jsavitt@sbwillp.com)
Cc: Jeffrey Needle; Christine Tobin; Lonnie Lopez
Subject: RE: Jenny Durkan [KLG-USW_Active01.FID1393498]

Hello Susan -

Former Mayor Durkan is out of town and not available for a deposition on March 29, 2023
In fact she will not be back until mid-week of April 10, 2023.
Probably the earliest we can look is possibly Friday, April 14, 2023.
I would prefer the following week of April 17, 2023 simply for the ease my schedule.

Thank you,

Bill



G. William Shaw
(pronouns - he, him) [i](#)
K&L| Gates
925 Fourth Avenue , Suite 2900
Seattle, Washington 98104
Voice: - (206) 370-7955
Cell: - (206) 419-7137
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Declaration of Susan B. Mindenbergs

Exhibit 6

1 HONORABLE SUSAN J. CRAIGHEAD, DEPT. 18
2 2020 OCT 08 03:32 PM
3 KING COUNTY
4 SUPERIOR COURT CLERK
5 E-FILED
6 CASE #: 20-2-14351-1 SEA

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

9 THE ESTATE OF SUMMER JOLIE
10 WILLIAMS TAYLOR, by and through
11 MATTHEW D. TAYLOR, personal
12 representative; DANIEL GREGORY;
13 JASON SCHIERER as guardian ad litem for
14 minor MALICHI HOWE a.k.a BRYUANA
15 HOWE; JOHN W. KELLIHER; JENNA
16 KINYON; JORDAN A. PICKETT;
17 DANIEL PIERCE; JOSEPH WIESER;
18 GILLIAN WILLIAMS; and DOES 1-40,

19 Plaintiffs,

20 v.

21 CITY OF SEATTLE, a governmental entity;
22 and STATE OF WASHINGTON, a
23 governmental entity,

24 Defendant.

No.: 20-2-14351-1 SEA

**NOTICE OF APPEARANCE ON
BEHALF OF DEFENDANT CITY
OF SEATTLE**

25 **TO: CLERK OF THE COURT;**

AND TO: ALL COUNSEL OF RECORD:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the above-named defendant, City of Seattle, without waiving objections as to improper service or jurisdiction, hereby enters its appearance in the above-entitled action by the attorneys undersigned. You

NOTICE OF APPEARANCE ON BEHALF OF DEFENDANT CITY
OF SEATTLE - NO.: 20-2-14351-1 SEA - 1

503763831.1

K&L GATES LLP
925 FOURTH AVENUE, SUITE 2900
SEATTLE, WA 98104-1158
TELEPHONE: +1 206 623 7580
FACSIMILE: +1 206 623 7022

1 are hereby requested to serve all further papers and proceedings in said cause, except
2 original process, upon said attorneys at their address below stated.

3 DATED this 8th day of October 2020.

4 PETER S. HOLMES
5 Seattle City Attorney

K&L GATES LLP

6 By: /s/ Ghazal Sharifi
7 Ghazal Sharifi, WSBA# 47750
8 Joseph Groshong, WSBA# 41593
9 Assistant City Attorneys
10 E-mail: ghazal.sharifi@seattle.gov
11 E-mail: Joseph.Groshong@seattle.gov

12 Seattle City Attorney's Office
13 701 Fifth Avenue, Suite 2050
14 Seattle, WA 98104
15 Phone: (206) 684-8200

16 *Attorney for Defendant City of Seattle*

By: /s/ Mark S. Filipini
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Michael D. McKay, WSBA No. 7040
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Martha J Dawson, WSBA No. 11795
martha.dawson@klgates.com
G. William Shaw, WSBA No. 8573
bill.shaw@klgates.com

Attorneys for Defendant City of Seattle

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CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of October, 2020, I caused the foregoing document to be served by email to all parties listed below:

Counsel for Plaintiffs

Karen A. Koehler
Andrew N. Ackley
Lisa Benedetti
Melanie Nguyen
Fred Rabb
STRITMATTER KESSLER KOEHLER
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- via ECF
- via Email
- via U.S. Mail
- via Facsimile
- via Messenger
- via Overnight Courier

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Attorneys for Defendant State of
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- via ECF
- via Email
- via U.S. Mail
- via Facsimile
- via Messenger
- via Overnight Courier

DATED this 8th day of October, 2020.

/s/ Sabrina Mitchell
Sabrina Mitchell
Sr. Practice Assistant

Declaration of Susan B. Mindenbergs

Exhibit 7

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

The Estate of SUMMER JOLIE)
WILLIAMS TAYLOR, by and)
through MATTHEW D. TAYLOR,)
Personal Representative, ZOE)
ADBERG, SARA ANDERSON, MEGAN) 20-2-14351-1 SEA
BUSS, GRACE CARMACK, LEANNA)
CARR, AISLING COONEY, ABIE)
EKENEZAR, EDWARD FARMER,)
NIMA FORGHANI, NOAH FOWLER,)
ZACHARY GARDNER, IAN GOLASH,)
GRACE GREGSON, MIRANDA)
HARDY, LEXUS HARTLEY,)
CLAYTON HOLLOBAUGH, JASON)
SCHIERER as guardian ad)
litem for minor MALICHI HOWE)
a.k.a. BRYAUNA HOWE, JESSE)
HUGHEY, AUBREANNA INDA, MARY)
JURGENSEN, TIMOTHY KAUCHAK,)
JOHN W. KELLIHER, JENNA)
KINYON, BEN KOENIGSBERG,) **Caption continued**
JACOB KOENIGSBERG, SETH)
KRAMER, ERIC LOOK, DANIEL)
LUGO, JACOB MARTIN, JOSHUA)

VIDEOTAPED VIDEOCONFERENCE DEPOSITION UPON ORAL
EXAMINATION OF
MAYOR JENNY DURKAN

(All participants appearing via Zoom videoconference.)

Witness located in
Seattle, Washington

DATE TAKEN: FEBRUARY 28, 2022
REPORTED BY: PATSY D. JACOY, CCR 2348

1 A P P E A R A N C E S
2 PRESENT VIA ZOOM FOR THE PLAINTIFFS:
3 KAREN K. KOEHLER
4 LISA BENEDETTI
5 GEMMA ZANOWSKI
6 MELANIE NGUYEN
7 FRED RABB
8 FURHAD SULTANI
9 ALYSHA KOEHLER
10 DRADIN KREFT
11 SARAH LIPPEK
12 KRISTIN MICHAUD
13 Stritmatter Kessler Koehler Moore
14 3600 15th Avenue W, Suite 300
Seattle, WA 98119
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gemma@stritmatter.com
melanie@stritmatter.com
fred@stritmatter.com
furhad@stritmatter.com
kristin@stritmatter.com

PRESENT VIA ZOOM FOR THE DEFENDANT CITY OF SEATTLE:

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16 Seattle City Attorney's Office
17 701 Fifth Avenue, Suite 2050
Seattle, WA 98104
296.684.8200
18 joseph.groshong@seattle.gov
19 G. WILLIAM SHAW
20 RYAN J. GROSHONG
21 IVAN L. ASCOTT
22 BENJAMIN C. WOODRUFF
23 K&L Gates LLP
24 925 Fourth Avenue, Suite 2900
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bill.shaw@klgates.com
ryan.groshong@klgates.com
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ben.woodruff@klgates.com
25

1 MATNEY, CHLOE MERINO, LOGAN
2 MILLER, TONI MILLS, ALESSANDRA
3 MOWRY, KELSEY MURPHY-DUFORD,
4 WESLEY PEACOCK, JORDAN A.
5 PICKETT, CHARLES PIERCE, DANIEL
6 PIERCE, CONOR POUILL, RENEE
7 RAKETTY, JAVIER RIZO, ALEXANDER
8 RUEDEMANN, MICHAUD SAVAGE,
9 CAROLYN STERNER, SEAN SWANSON,
10 MEGHAN THOMPSON, BRUCE TOM,
11 TIFFANY VERGARA-MADDEN, ALIYE
12 VOLKAN, STEVEN WIDMAYER, JOSEPH
13 WIESER, GILLIAN WILLIAMS, QUINN
14 ZOSCHKE, and DOES 1-40;

Plaintiff(s),

vs.

CITY OF SEATTLE, a governmental
entity, and KING COUNTY, a
governmental entity;

Defendant(s).

1 A P P E A R A N C E S (cont'd)

2
3 PRESENT VIA ZOOM FOR DEFENDANT KING COUNTY:

4 ANN M. SUMMERS
5 King County Prosecutor's Office
6 1191 Second Avenue, Suite 1700
Seattle, WA 98101
206.477.1909
ann.summers@kingcounty.gov
7

8 VIDEOGRAPHER:
9 JASON NEUERBERG
Buell Realtime Reporting, LLC
10

11 ALSO PRESENT:

12 GRACE CARMACK
13 GRACE GREGSON
14 SETH KRAMER
15 TONI MILLS
16 DANIEL PIERCE
17 RENEE RAKETTY
18 MICHAUD SAVAGE
19 JOSEPH SAVAGE
20 SEAN SWANSON
21 NOAH WICK
22
23
24
25

1 through public records training?
 2 A. To the best of my knowledge, that's correct.
 3 **Q. So as mayor, when you learned that your texts**
 4 **were deleted, who do you say has responsibility for the**
 5 **deletion of your texts?**

6 MR. SHAW: Objection; form, foundation.
 7 A. Again, I can't speculate as to who that is,
 8 but I did make sure that they wanted to take some --
 9 some actions, one, before this happened it was my
 10 understanding that the City backed up and archived all
 11 of its electronic data, including text messages. When
 12 through this we learned that wasn't the case, so we put
 13 in a pilot program to start making sure that we could
 14 collect all text messages from my phone, my senior
 15 team's and then move that pilot out to key people.
 16 Second, we wanted to review all of our
 17 practices not just in terms of retention of electronic
 18 evidence, but how we produced that and also created a
 19 transparency advisory group to ensure that we could
 20 have the best practices in place and that has media
 21 representatives as well as some transparency experts.
 22 So as mayor that's what was really important
 23 to me was, one, both how do we make sure this doesn't
 24 happen again, but then how do we improve our ability to
 25 maintain, collect and produce electronic records, and

1 conclusion, form, foundation.
 2 A. Again, I think you're trying to create a legal
 3 standard when I think that we're looking for a factual
 4 standard.

5 **Q. (BY MS. KOEHLER) I'm just looking for, you**
 6 **know, you're -- you're the leader of the City. Aren't**
 7 **you -- doesn't the buck stop with you?**

8 MR. SHAW: Objection; form, foundation,
 9 calls for a legal conclusion.

10 A. Is that a question?
 11 **Q. (BY MS. KOEHLER) It was.**

12 A. Okay. Obviously as the mayor of the City of
 13 Seattle many responsibilities end at my desk, and it's
 14 my job as an individual in the City to preserve public
 15 records which we did. I believed that all public
 16 records and electronic records were being maintained.
 17 Apparently that wasn't the case. But through this --
 18 endeavors of the litigation and others we actually have
 19 been able to recover the vast majority of those text
 20 messages.

21 **Q. Oh, my gosh, at an incredible cost to the**
 22 **taxpayers, though. I mean, this has -- this has just**
 23 **been enormously expensive, hasn't it? I mean, \$500,000**
 24 **just for the forensic report on your phone. That would**
 25 **have gone a long way to feed people that have low**

1 as you know, electronic records have grown
 2 significantly and they grew even more significantly
 3 during this period of time because we moved to a
 4 work-from-home setting and as a result it had some
 5 negative impacts on our abilities to produce public
 6 records.

7 MS. KOEHLER: I'm going to move to
 8 strike as nonresponsive.

9 **Q. (BY MS. KOEHLER) So as a lawyer, if I make a**
 10 **mistake, I'm responsible. If my staff makes a mistake,**
 11 **I'm responsible. And my question to you is, you had a**
 12 **duty under the public records act to maintain your**
 13 **texts. They're gone, they're deleted. Do you accept**
 14 **responsibility for the fact that your texts were**
 15 **deleted?**

16 MR. SHAW: Objection; form, foundation.

17 A. Again, Ms. Koehler, I think you're trying to
 18 make a legal conclusion and I was trying to answer the
 19 factual question which is when I hear who's responsible
 20 it means who did it, and it was my intent as mayor to
 21 always maintain all of our electronic data and that was
 22 what I tried to do.

23 **Q. (BY MS. KOEHLER) Do you agree that you are**
 24 **responsible for your texts being deleted?**

25 MR. SHAW: Objection; calls for a legal

1 **income.**
 2 MR. SHAW: Object to form.

3 **Q. (BY MS. KOEHLER) I mean, it's been a terrible**
 4 **thing, right? This -- this has not been a great thing.**
 5 **You would agree with me on that?**

6 MR. SHAW: Objection; form, foundation.
 7 A. I would agree it has not been a positive
 8 thing.

9 **Q. (BY MS. KOEHLER) All right. Well, here's a**
 10 **question that I was wondering: Why do you use texts in**
 11 **your role as mayor? I was surprised. Because I'm not**
 12 **political, obviously I'm too blunt, like -- but we have**
 13 **Teams in our office. We have different software**
 14 **solutions. Why texts? Is that just widely used within**
 15 **city government?**

16 MR. SHAW: Objection; form, foundation.

17 A. I think actually if you look at the texts that
 18 have been produced you see that it was my standard
 19 practice not to conduct substantive business by text
 20 message and it was used primarily as a communication
 21 tool to touch base to say, "Hey, we should talk? Or
 22 "Call me," and that I -- maybe because it's
 23 generational or maybe because I think it's more
 24 effective, when I conduct City business I try to be in
 25 the same room with someone or talk to them on the

Page 201

1 were recovered or not?

2 MR. SHAW: Objection; form, foundation.

3 A. I don't know the answer to that.

4 **Q. (BY MS. KOEHLER) In the report and in**
 5 **statements Chief Best stated that she periodically**
 6 **personally deleted text messages routinely. Did you**
 7 **ever do that?**

8 A. No.

9 **Q. Was that something that you learned was proper**
 10 **to do when you went through public records training, to**
 11 **delete messages off of your City-issued phones?**

12 MR. SHAW: Objection; form, foundation.

13 A. It was my practice to keep everything on the
 14 phone unless it was, you know, like a clear phishing
 15 attempt or spam, but as you know, there is -- there is
 16 a different obligation if something is clearly
 17 transitory, if -- and that can be deleted. So I don't
 18 know what -- what messages the chief did delete. I
 19 don't have any personal knowledge or information about
 20 it. It was my practice to keep things on my phone.

21 **Q. (BY MS. KOEHLER) What was your role with**
 22 **regard to the Palo Alto Networks Unit 42 investigation**
 23 **which commenced when you were mayor on November 5,**
 24 **2020?**

25 A. I did not have a role with them. I think they

Page 203

1 **June 25, 2020. Is that correct?**

2 A. Could you just -- I'm just trying to find the
 3 document. Can I -- hold on just a second.

4 **Q. Sure.**

5 A. Which tab was it?

6 **Q. Yes.**

7 MR. SHAW: And you want us on page 4,
 8 correct?

9 MS. KOEHLER: Yes.

10 A. Okay, I see where you are now. What's the
 11 question?

12 **Q. (BY MS. KOEHLER) Am I correct that the period**
 13 **of the missing texts was October 30, 2019 through**
 14 **June 25, 2020?**

15 A. I believe that's correct, that's when there
 16 were -- the texts were missing.

17 **Q. Have you reviewed this report since it came**
 18 **out?**

19 A. I have reviewed it. As you said, it's very
 20 technical in spots so I would not pretend to be an
 21 expert, but I have reviewed the report.

22 **Q. Page 31 calculates that approximately 5,911**
 23 **text messages were deleted between -- this goes back in**
 24 **time -- November 2017 and July 4, 2020.**

25 A. Can you -- what page is that on?

Page 202

1 were retained by counsel.

2 **Q. Okay. Did the mayor's office have any role in**
 3 **that investigation other than cooperating when asked**
 4 **questions?**

5 MR. SHAW: Objection; foundation, form.

6 A. No, I think it's -- it's fair to say that
 7 that -- that we cooperated when asked to give them
 8 either the devices or information.

9 MS. KOEHLER: All right. The next
 10 exhibit is Exhibit Number 42.

11 (Exhibit No. 42 was marked.)

12 **Q. (BY MS. KOEHLER) This is that report. This**
 13 **is not Bates stamped yet. It just was released -- we**
 14 **probably should have the Bates-stamped version. We'll**
 15 **substitute the Bates-stamped version for this version**
 16 **of Exhibit 42.**

17 MR. SHAW: Bear with me. I'm -- I'm
 18 sorry.

19 MS. KOEHLER: Yes.

20 MR. SHAW: I'm looking for a hard copy.

21 MS. KOEHLER: Sure.

22 MR. SHAW: 61? Thank you. There it is.

23 Thank you.

24 **Q. (BY MS. KOEHLER) Page 4, this identifies the**
 25 **missing texts as existing between October 30, 2019 and**

Page 204

1 MR. SHAW: Page 31.

2 **Q. (BY MS. KOEHLER) That is page 31.**

3 MR. SHAW: It's actually 30 in the
 4 document. 31 of the PDF.

5 A. Okay, so what's the question?

6 **Q. (BY MS. KOEHLER) It says here -- let me get**
 7 **this right. It can be inferred that because artifacts**
 8 **indicate approximately 5,911 messages were synchronized**
 9 **to the iPhone 8 Plus, FirstNet, as part of the July 4,**
 10 **2020 process.**

11 **Do you see that -- that paragraph?**

12 A. I do see that, yep.

13 **Q. Have you reviewed this document before?**

14 MR. SHAW: Objection; form, foundation.

15 A. Again, I think I've said that I reviewed it,
 16 but it is fairly technical.

17 **Q. (BY MS. KOEHLER) And it --**

18 A. I -- sorry, I'll wait for the question.

19 **Q. Going back to, let's say, page 27, I'll show**
 20 **you my attempt at math. This is my attempt at math.**
 21 **On page 27, it states that between November 18, 2017 to**
 22 **August 29, 2019 that they identified 3,643 active text**
 23 **messages during that period of time.**

24 A. Could you point where that is again? I'm --

25 **Q. Right under text/chat message analysis.**

51 (Pages 201 to 204)

Page 265

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THE WITNESS: Thank you.
MR. SHAW: No questions. Thank you.
THE WITNESS: Thank you very much.
VIDEO OPERATOR: This concludes the deposition. The time now is 5:01 p.m. We are going off the record.
(Deposition concluded at 5:01 p.m.)
(Signature was reserved.)

Page 266

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CERTIFICATE

STATE OF WASHINGTON)
)
COUNTY OF KING)

I, Patricia D. Jacoy, a Certified Shorthand Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the deposition of MAYOR JENNY DURKAN taken on February 28, 2022 is true and accurate to the best of my knowledge, skill and ability.



Patricia D. Jacoy

Patricia D. Jacoy, CSR 2348

Declaration of Susan B. Mindenbergs

Exhibit 8


Subject: RE: Motion to Quash [KLG-USW_Active01.FID1393498]
Date: Wednesday, March 29, 2023 at 4:37:05 PM Pacific Daylight Time
From: Shaw, Bill <bill.shaw@klgates.com>
To: Susan Mindenbergs <susanmm@msn.com>, Brandi Balanda <bbalanda@sbwllp.com>, JAMES P. SAVITT (jsavitt@sbwllp.com) <jsavitt@sbwllp.com>, Woodruff, Ben C. <Ben.Woodruff@klgates.com>, Jaber, Emaan R. <Emaan.Jaber@klgates.com>
CC: Jeffrey Needle <jneedle@jneedlelaw.com>, Christine Tobin <christine@sbmlaw.net>, Lonnie Lopez <lrlopez.paralegal@gmail.com>
Attachments: image001.jpg

Hello Susan -

We had prepared pleadings in support of our motion to quash to file this afternoon if you and I were able to connect today by Zoom. Unfortunately due to a clerical error those pleadings were filed today when they should not have been filed. Please ignore and delete those pleadings.

Sincerely,

Bill

G. William Shaw
(pronouns - he, him) 
K&L| Gates
925 Fourth Avenue , Suite 2900
Seattle, Washington 98104
Voice: - (206) 370-7955
Cell: - (206) 419-7137
Fax: - (206) 370-6169

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From: Shaw, Bill
Sent: Wednesday, March 29, 2023 2:26 PM
To: 'Susan Mindenbergs' <susanmm@msn.com>; Brandi Balanda <bbalanda@sbwllp.com>; JAMES P. SAVITT (jsavitt@sbwllp.com) <jsavitt@sbwllp.com>; Woodruff, Ben C. <Ben.Woodruff@klgates.com>; Jaber, Emaan R. <Emaan.Jaber@klgates.com>
Cc: Jeffrey Needle <jneedle@jneedlelaw.com>; Christine Tobin (christine@sbmlaw.net) <christine@sbmlaw.net>; Lonnie Lopez <lrlopez.paralegal@gmail.com>

Subject: RE: Motion to Quash [KLG-USW_Active01.FID1393498]

Hello Susan -

How about a Zoom meeting right now?

It would take all of 5 minutes.

The timing of the dates you propose means that we will need to find a date and time for Ms. Durkan's deposition after a ruling on the motion to quash.

The motion to quash needs to be decided before Ms. Durkan's deposition.

I am unavailable on April 7, 2023 as I am out of the office and on vacation.

I am available to conduct our CR 26(i) "meet and confer" on April 10, 2023 at 9:00 am.

Sincerely,

Bill

From: Susan Mindenbergs <susanmm@msn.com>
Sent: Wednesday, March 29, 2023 1:49 PM
To: Shaw, Bill <bill.shaw@klgates.com>
Cc: Jeffrey Needle <jneedle@jneedlelaw.com>; Christine Tobin (christine@sbmlaw.net) <christine@sbmlaw.net>; Lonnie Lopez <lropez.paralegal@gmail.com>
Subject: Re: Motion to Quash [KLG-USW_Active01.FID1393498]

I do not consider this correspondence in compliance with CR26(i). I can confer with you telephonically on April 7 at 1 p.m. or April 10 at 9 a.m. to discuss your motion to quash. Please let me know which date works for you so I can arrange to have a court reporter present.

Susan B. Mindenbergs
Attorney at Law
705 Second Avenue, Suite 1050
Seattle, WA 98104
Phone: (206) 447-1560

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From: Shaw, Bill <bill.shaw@klgates.com>
Sent: Wednesday, March 29, 2023 12:48 PM
To: Susan Mindenbergs <susanmm@msn.com>; Brandi Balanda <bbalanda@sbwllp.com>; JAMES P. SAVITT (jsavitt@sbwllp.com) <jsavitt@sbwllp.com>
Cc: Jeffrey Needle <jneedle@jneedlelaw.com>; Christine Tobin (christine@sbmlaw.net) <christine@sbmlaw.net>; Lonnie Lopez <lropez.paralegal@gmail.com>; Woodruff, Ben C. <Ben.Woodruff@klgates.com>; Jaber, Emaan R. <Emaan.Jaber@klgates.com>
Subject: RE: Motion to Quash [KLG-USW_Active01.FID1393498]

Hello Susan -

I am embarrassed that I did not meet and confer with you regarding precluding Ms. Durkan's deposition per CR 26(i).

I know better, got distracted on another issue and did not follow through on contacting you and that is not the way I practice.

I regret that oversight and I apologize.

With that as a backdrop, how would you like to proceed? Given your request that our communications either be in writing or be recorded, I am wondering if we could use this email for compliance with CR 26(i).

If so, our position is that we don't believe that Ms. Durkan should be deposed in this case for the reasons we set out in our initial motion.

The question I next pose, do you agree and will you withdraw your notice of deposition?

Given your written response, I fully expect that we disagree on the need for Ms. Durkan's deposition. Can you confirm that is your position?

Hypothetically speaking, if the trial court were to deny Ms. Durkan's motion, what is your position on limiting the duration and scope of your deposition of Ms. Durkan?

Are you willing to limit your focus?

I would also be interested to know what your expectation is for duration and scope of your examination.

I look forward to hearing from you so that we can refile our motion.

Thank you,

Bill

G. William Shaw

(pronouns - he, him) [i](#)

K&L| Gates

925 Fourth Avenue , Suite 2900

Seattle, Washington 98104

Voice: - (206) 370-7955

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From: Susan Mindenbergs <susanmm@msn.com>
Sent: Tuesday, March 28, 2023 11:38 AM
To: Shaw, Bill <bill.shaw@klgates.com>
Cc: Jeffrey Needle <jneedle@jneedlelaw.com>; Christine Tobin (christine@sbmlaw.net) <christine@sbmlaw.net>; Lonnie Lopez <lropez.paralegal@gmail.com>
Subject: Motion to Quash

As a preliminary matter, I prefer that any communication between us must be either in writing or, if telephonic, recorded.

Since you are striking the Motion to Quash/Protective order, if you are willing to reimburse Plaintiffs for the attorney fees they incurred responding to your frivolous motion, I will not seek a separate motion for sanctions. I spent 26 hours responding to the motion. My usual and customary fee is \$575 an hour for a total of \$14,950. If I am forced to draft a separate motion for sanctions, I will seek reimbursement from you and your client for that motion, as well. Please let me know by the close of business tomorrow, March 29, 2023, if you are willing to reimburse Plaintiffs for the fees incurred.

Before we can communicate about scheduling Ms. Durkan's deposition, we will have to get available dates from SBW. Yesterday, I provided both you and SBW several available dates but I have not received a response from either of you about an available date.

Susan B. Mindenbergs
Attorney at Law
705 Second Avenue, Suite 1050
Seattle, WA 98104
Phone: (206) 447-1560

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Declaration of Susan B. Mindenbergs

Exhibit 9



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Honorable Stanley J. Rumbaugh

Presentation: March 25, 2022

SUPERIOR COURT OF WASHINGTON
THE COUNTY OF PIERCE

SHEILA LAROSE
Plaintiff,

NO. 15-2-13418-9

vs.

KING COUNTY, and PDA, dba THE
DEFENDER ASSOCIATION, a non-profit
corporation,
Defendants.

**SUPPLEMENTAL JUDGMENT FOR
PLAINTIFF AS TO ATTORNEY FEES,
COSTS AND 'BLANEY' TAX
ADJUSTMENT TO OFFSET ADVERSE
TAX CONSEQUENCES**

(Clerk's Action Required)

JUDGMENT SUMMARY

Pursuant to RCW 4.64.030, the following information should be entered in the Clerk's Execution Docket:

JUDGMENT CREDITOR: **Sheila LaRose**

JUDGMENT CREDITOR'S ATTORNEYS: **Mary Ruth Mann
James Kytle
Mann & Kytle, PLLC
1425 Western Ave, #104
Seattle, WA 98101**

**Susan Mindenbergs
Law Office of Susan Mindenbergs
705 2nd Ave., Suite 1050**

SUPPLEMENTAL JUDGMENT FOR ATTORNEY FEES,
COSTS AND 'BLANEY' TAX ADJUSTMENT

~~(REDACTED)~~ - 1

LAW OFFICES OF
MANN & KYTLE, PLLC
1425 Western Ave #104
Seattle, WA 98101
Tel. 206-587-2700

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Seattle, WA 98104

JUDGMENT DEBTOR King County, Washington

JUDGMENT DEBTOR'S ATTORNEY: Patricia Eakes
Calfo Eakes LLP
1301 Second Ave, Suite 2800
Seattle, WA 98101-3808

ORIGINAL JUDGMENT AMOUNT: SEPARATE JUDGMENT PREVIOUSLY ENTERED

TOTAL TAXABLE COSTS ATTORNEY FEES AND OTHER POST JUDGMENT RELIEF:

ATTORNEY FEES : \$4,052,053.64
COSTS: \$ 377,030.63
BLANEY TAX ADJUSTMENT: \$ 498,828.00

POST JUDGMENT INTEREST ON SUPPLEMENTAL JUDGMENT Statutory Interest Pursuant to RCW 4.56.110 at 2.590%

ENTRY OF JUDGMENT

This case came on for trial August 31, 2021. A Judgment based on the special verdict in favor of Plaintiff rendered by a jury of 12 on October 21, 2021, in the total amount of \$7,000,000 has already been entered against Defendant King County. This separate additional Judgment is supplemental to that Judgment and covers the award of Attorney Fees, Costs and the 'Blaney' Tax Adjustment (to offset the adverse tax effect of the lump sum verdict for economic damages).

1 Consistent with the Court's Orders in this action and upon motion by Plaintiff the Court
2 enters Judgment as follows:

- 3 1. Plaintiff Sheila LaRose is awarded judgment attorney fees and paralegal time
4 against King County, Washington in the amount of **\$4,052,053.64**.
- 5 2. Plaintiff Sheila LaRose is awarded judgment for Costs against King County in the
6 amount of **\$377,030.63**.
- 7 3. Plaintiff Sheila LaRose is awarded Judgment for a 'Blaney' tax adjustment in the
8 amount of **\$498,828.00**.
- 9 4. Plaintiff may file a motion for fees and costs necessarily incurred after those
10 provided in this Supplemental Judgment on or before March 1, 2022.
- 11 5. The post judgment interest rate on this supplemental judgment as provided in statute
12 and computed and published in the State Register for March of 2022 is **2.590%**
13
14

15
16 DATED this 31 day of March 2022.

17
18
19
20 
HONORABLE STANLEY J. RUMBAUGH



1 Presented by:
2 MANN & KYTLE, PLLC

3 

4 Mary Ruth Mann, WSBA 9343
5 James W. Kytle, WSBA 35048
6 1425 Western Ave #104
7 Seattle, WA 98101
8 206-587-2700

9 LAW OFFICE OF SUSAN MINDENBERGS

10 

11 Susan Mindenbergs, WSBA #20545
12 705 2nd Ave., Suite 1050
13 Seattle, WA 98104

14 *Attorneys for Plaintiff*

15 Copy Received, Approved for Entry
16 LAW OFFICE OF CALFO EAKES, LLP

17 *S/ Kendall S. Cowles*

18 Patricia A. Eakes, WSBA #18888
19 Damon C. Elder, WSBA #46754
20 Kendall S. Cowles, WSBA #57919
21 Calfo Eakes LLP
22 1301 Second Avenue, Suite 2800
23 Seattle, WA 98101
24 Telephone: (206) 407-2200
25 Facsimile: (206) 407-2224
Email: patty@calfoeakes.com
Email: damone@calfoeakes.com
Email: kendallc@calfoeakes.com

Attorneys for Defendant King County, Washington

SUPPLEMENTAL JUDGMENT FOR ATTORNEY FEES,
COSTS AND 'BLANEY' TAX ADJUSTMENT

~~(PRUC 5)~~ - 4

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CERTIFICATE OF SERVICE

I certify that on this date, I caused true and correct copies of the foregoing to be served on the following parties and/or counsel of record in the manner shown:


Counsel for Defendant King County

Patricia A. Eakes, WSBA #18888
Damon C. Elder, WSBA #46754
Kendall Cowles, WSBA#57919
Calfo, Eakes LLP
1301 Second Ave, Suite 2800
Seattle, WA 98101-3808
*Service via electronic court filing: patty@calfoeakes.com;
damone@calfoeakes.com;kendallc@calfoeakes.com*

Counsel for Defendant PDA

Christopher H. Howard, WSBA #11074
Farron Curry, WSBA #40559
Schwabe, Williamson & Wyatt, P.C.
1420 Fifth Avenue, Suite 3400
Seattle, WA 98101
Service via electronic court filing: choward@schwabe.com; fcurry@schwabe.com

DATED this 29th day of March, 2022 Seattle, Washington



Stacy Hughes, Paralegal