

CASE NUMBER
2520071032
SN:32.0 PC:47

FILED
7/11/2025
Timothy W Fitzgerald
Spokane County Clerk

SUPERIOR COURT OF WASHINGTON IN AND FOR SPOKANE COUNTY

CITY OF SPOKANE VALLEY, a municipal
corporation,

Plaintiff,

v.

ALBERT W. MERKEL, an individual,

Defendant.

NO. 25-2-00710-32

DECLARATION OF REID G. JOHNSON
IN SUPPORT OF PLAINTIFF'S
RESPONSE TO MOTION FOR
PROTECTIVE ORDER TO
TEMPORARILY STAY DISCOVERY
AND MOTION FOR ATTORNEY'S
FEES

I, REID G. JOHNSON, declare as follows:

1. I am over the age of 18, competent to testify, and I make the following statements based on my own personal knowledge.

2. I am one of the attorneys of records for Plaintiff City of Spokane Valley ("the City") in the above-captioned lawsuit.

3. On or about March 21, 2025, the City issued its First Sets of Interrogatories and Requests for Production of Documents to Defendant Albert W. Merkel (the "First Discovery Set"). Attached hereto as **Exhibit A** are true and correct copies of select pages from the First Discovery Set.

4. On or about June 9, 2025, Defendant provided his Answers, Responses, and Objections to the First Discovery Set, which contain Defendant's blanket objections that the City's discovery requests violate his right to privacy, impose an undue burden and expense, and seek irrelevant evidence. Based on those objections, Defendant did not substantively answer at least 33

DECLARATION OF REID G. JOHNSON: 1

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
717 W Sprague Ave., Suite 1600
Spokane, WA 99201
Telephone: (509) 455-9555
Fax: (509) 747-2323

1 requests. Attached hereto as **Exhibit B** are true and correct copies of select pages from Defendant's
2 Answers, Responses, and Objections to the First Discovery Set.

3 5. Attached hereto as **Exhibit C** is a true and correct copy of an email thread between
4 me and counsel for Defendant dated June 9, 2025 through June 26, 2025, containing counsel for
5 Defendant's request for a protective order that "would not require Mr. Merkel to answer or
6 respond" to the First Discovery Set until after July 18, 2025, as well as the City's subsequent
7 rejection of that proposed protective order.

8 6. Based on counsel for Defendant's emails, I interpreted Defendant's proposal as a
9 request to (1) shield Defendant from having to produce responses and documents to the City's as
10 part of discovery and (2) prevent the City from disclosing any responses to the public until the
11 Court could conduct an *in camera* review. That proposal is not feasible because the City needs to
12 obtain the requested documents from Defendant in order to determine whether those documents
13 are subject to disclosure under the PRA. In addition, the City is in no position to obligate the Court
14 to conduct an *in camera* review of potentially hundreds of responsive documents.

15 7. On June 30, 2025, counsel for the parties held a CR 26(i) conference to discuss
16 Defendant's deficient discovery responses. During that conference, counsel for Defendant only
17 agreed to supplement Defendant's responses by providing log in credentials to Defendant's
18 NextDoor account and additional information regarding Defendant's criminal history. However,
19 counsel for Defendant continued to object to virtually every single one of the City's discovery
20 requests related to Defendant's communications with third parties concerning City business. Based
21 on those objections, counsel for Defendant made it clear that Defendant had no intention of
22 supplementing at least 33 individual discovery requests.

23 8. Attached hereto as **Exhibit D** is a true and correct copy of an email that I received
24 from counsel for Defendant on June 30, 2025 immediately following our CR 26(i) conference
25 containing assertions that Defendant had no intention of producing the requested records as part
of discovery. That email also contains a repeated proposal for a protective order with sweeping
terms that would relieve Defendant of his obligation to produce records to the City.

1 9. The City rejected Defendant's proposal for a stipulated protective order because its
2 terms expressly shielded Defendant from disclosing documents to the City as part of discovery.

3 10. On or about June 30, 2025, Defendant provided his First Supplemental Answers,
4 Responses, and Objections to the First Discovery Set. Attached hereto as **Exhibit E** are true and
5 correct copies of select pages from First Supplemental Answers, Responses, and Objections to the
6 First Discovery Set.

7 11. Attached hereto as **Exhibit F** is a true and correct copy of an email that I received
8 from counsel for Defendant on July 2, 2025 stating in no uncertain terms that "Mr. Merkel will not
9 provide the City with data for any of his private electronic communications."

10 12. On July 7, 2025, Defendant filed and served the Motion for Protective Order to
11 Temporarily Stay Discovery and Motion for Attorney's Fees. Based on my review of that motion
12 and its supporting materials—namely, the proposed Protective Order—it is not clear whether
13 Defendant is suddenly willing to produce records to the City as part of discovery. The title of
14 Defendant's motion requesting to "Temporarily Stay Discovery" only adds to the confusion of
15 Defendant's positions on this motion.

16 13. Attached hereto as **Exhibit G** is a true and correct copy of an email thread between
17 counsel for Defendant and myself dated June 10, 2025 containing my request for clarification on
18 Defendant's position and proposal to resolve this discovery dispute. That email thread also
19 contains counsel for Defendant's one-line response stating, "Reid, file your response."

20 14. To date, it is not clear to me or the City whether Defendant is willing to produce
21 requested documents to the City as part of discovery, subject to a standard protective order that
22 prohibits public disclosure.

23 //

24 //

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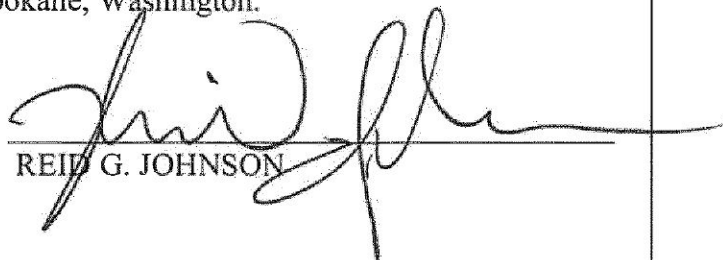
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DECLARATION OF REID G. JOHNSON: 3

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
717 W Sprague Ave., Suite 1600
Spokane, WA 99201
Telephone: (509) 435-9555
Fax: (509) 747-2323

1 I certify under penalty of perjury under the laws of the State of Washington that the
2 foregoing is true and correct.

3 DATED this 11th day of July, 2025 at Spokane, Washington.

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6 REID G. JOHNSON
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1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on the 11th day of July, 2025, I caused to be served a true
3 and correct copy of the foregoing by the method indicated below, and addressed to all entities
as follows:

4 Patrick J. Kirby
5 Patrick J. Kirby Law Office, PLLC
6 4353 S. Greystone Lane
Spokane, WA 99223
pkirby@pkirbylaw.com

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Via E-Filing
☒ Via Email

7 *Attorney for Defendant*

8 LUKINS & ANNIS, P.S.

9 
10 KIRSTEN PRICE, Legal Assistant

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DECLARATION OF REID G. JOHNSON: 5

LAW OFFICES OF
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A PROFESSIONAL SERVICE CORPORATION
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Spokane, WA 99201
Telephone: (509) 455-9555
Fax: (509) 747-2323

Exhibit A

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6
7 SUPERIOR COURT OF WASHINGTON IN AND FOR SPOKANE COUNTY

8 CITY OF SPOKANE VALLEY, a municipal
9 corporation,

NO. 25-2-00710-32

10 Plaintiff,

PLAINTIFF'S FIRST SET OF
INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS
TO DEFENDANT

11 v.

12 ALBERT W. MERKEL, an individual,

13 Defendant.

14 TO: DEFENDANT ALBERT W. MERKEL

15 AND TO: PATRICK J. KIRBY and PATRICK J. KIRBY LAW OFFICE, PLLC, your
16 counsel of record.

17 Plaintiff City of Spokane Valley ("Plaintiff") hereby requests that you respond to the
18 following interrogatories and requests for production of documents.


19 The following interrogatories are served pursuant to Civil Rule 33. To facilitate
20 preparation of answers and responses, Plaintiff will provide an electronic copy of this
21 document. Please insert your answers in the space provided following each interrogatory.
22 Completed responses should be served on the undersigned counsel. Each interrogatory is to be
23 answered fully and separately, in writing and under oath, within thirty (30) days after service of
24 these interrogatories upon you.
25

PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANT: 1

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
717 W. Sprague Ave., Suite 1600
Spokane, WA 99201
Telephone: (509) 455-9555
Fax: (509) 747-2723

1 DATED this 21st day of March, 2025.

2 LUKINS & ANNIS, P.S.

3
4 By: 
5 REID G. JOHNSON, WSBA #44338
6 MICHAEL J. HINES, WSBA #19929
7 ZAINE M. YZAGUIRRE, WSBA #5826
8 *Attorneys for the City of Spokane Valley*

9 **INTERROGATORIES AND**
10 **REQUESTS FOR PRODUCTION OF DOCUMENTS**

11 **INTERROGATORY NO. 1:** Please provide the name(s), address(es), email addresses,
12 and telephone number(s) of each person who participated in any way in preparing answers or
13 responses to the following interrogatories and requests for production.
14

15 **ANSWER:**

16
17
18 **INTERROGATORY NO. 2:** Please state the name(s), address(es), email address(es),
19 and telephone number(s) of each person known to you who has knowledge of the facts and
20 circumstances at issue in the above-referenced case (including, but not limited to, the facts and
21 circumstances at issue in the Complaint), and for each such person, please identify your
22 understanding of the specific knowledge and facts possessed.
23

24 **ANSWER:**

25
PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANT: 7

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
717 W Sprague Ave., Suite 600
Spokane, WA 99201
Telephone: (509) 455-9555
Fax: (509) 747-2321

1 **RFP NO. 6:** For each Nextdoor account identified in Interrogatory No. 13, please
2 produce complete copies of all your posts on your accounts, including all of your posts on any
3 3rd party accounts, concerning the Mayor, City Manager, other Councilmembers, and/or the
4 City Attorney for the City of Spokane Valley from January 2024 to the present.
5

6 **RESPONSE:**
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9 **RFP NO. 7:** For each Nextdoor account identified in Interrogatory No. 13, please
10 produce complete copies of all of your posts on your accounts, including your posts on any 3rd
11 party accounts, concerning the City of Spokane Valley's actions, initiatives, proposals,
12 resolutions, spending, and/or councilmember meetings from January 2024 to the present.
13

14 **RESPONSE:**
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17 **RFP NO. 8:** For each Nextdoor account identified in Interrogatory No. 13, please
18 produce complete copies of your posts, including all of your posts on any 3rd party accounts,
19 concerning or containing citizen polls and/or surveys conducted by you from January 2024 to
20 the present.
21

22 **RESPONSE:**
23
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PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANT: 14

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
117 W. Sprague Ave., Suite 1600
Spokane, V.A. 99201
Telephone (509) 455-9555
Fax (509) 747-2121

1 **RFP NO. 12:** For each X (formerly, Twitter) account identified in Interrogatory No. 15,
2 please produce complete copies of all of your posts, including all of your posts on any 3rd party
3 accounts, concerning the Mayor, City Manager, other Councilmembers, and/or other the City
4 Attorney for the City of Spokane Valley from January 2024 to the present.

5 **RESPONSE:**
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9 **RFP NO. 13:** For each X (formerly, Twitter) account identified in Interrogatory No. 15,
10 please produce complete copies of all of your posts, including your posts on any 3rd party
11 accounts, concerning the City of Spokane Valley's actions, initiatives, proposals, resolutions,
12 spending and/or councilmember meetings from January 2024 to the present.

13 **RESPONSE:**
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17 **RFP NO. 14:** For each X (formerly, Twitter) account identified in Interrogatory No. 15,
18 please produce complete copies of all of your posts, including your posts on any 3rd party
19 accounts, concerning or containing citizen polls and/or surveys conducted by you from January
20 2024 to the present.

21 **RESPONSE:**
22
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PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANT: 17

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
717 W Sprague Ave., Suite 1600
Spokane, WA 99201
Telephone: (509) 455-9575
Fax: (509) 455-2121

1
2 **INTERROGATORY NO. 19:** Please identify each and every phone number that you
3 have used and/or maintained from January 2024 to the present.

4 **ANSWER:**

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7 **RFP NO. 23:** For each phone number identified in Interrogatory No. 19, please
8 produce complete copies of all non-privileged phone and/or text message communications
9 concerning the Mayor, City Manager, other Councilmembers, and/or other the City Attorney
10 for the City of Spokane Valley from January 2024 to the present.

11 **RESPONSE:**

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15 **RFP NO. 24:** For each phone number identified in Interrogatory No. 19, please
16 produce complete copies of all non-privileged phone and/or text message communications
17 concerning the City of Spokane Valley's actions, initiatives, proposals, resolutions, spending
18 and/or councilmember meetings from January 2024 to the present.

19 **RESPONSE:**

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23 **RFP NO. 25:** Please produce copies of all communications between you and Jodie
24 Buehler (including any social media posts, social media comments, direct messages, text
25

PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANT: 22

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
200 W. Spokane Ave., Suite 1500
Spokane, WA 99201
Telephone (509) 455-9555
Fax: (509) 747-1123

1 **RFP NO. 29:** Please produce all documents concerning your answer to the previous
2 interrogatory.

3 **RESPONSE:**
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7 **INTERROGATORY NO. 23:** Please state whether you have deleted any
8 communications (including any social media posts, social media comments, direct messages,
9 text messages, emails, etc.) concerning the Mayor, City Manager, other Councilmembers,
10 and/or other the City Attorney for the City of Spokane Valley from January 2024 to the present.

11 **ANSWER:**
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15 **INTERROGATORY NO. 24:** Please state whether you have deleted any
16 communications (including any social media posts, social media comments, direct messages,
17 text messages, emails, etc.) concerning the City of Spokane Valley's actions, initiatives,
18 proposals, resolutions, spending and/or councilmember meetings from January 2024 to the
19 present.
20

21 **ANSWER:**
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PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANT: 25

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
712 W. Sprague Ave., Suite 1600
Spokane, WA 99201
Telephone: (509) 455-9000
Fax: (509) 747-2323

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on the 21st day of March, 2025, I caused to be served a true
3 and correct copy of the foregoing by the method indicated below, and addressed to all counsel
4 of record as follows:

5 Patrick J. Kirby
6 Patrick J. Kirby Law Office, PLLC
7 4353 S. Greystone Lane
8 Spokane, WA 99223
9 pkirby@pkirbylaw.com

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (FAX)
☒ Via email

10 *Attorney for Defendant*

11 
12 FIONA SPRING, LEGAL ASSISTANT

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PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANT: 29

01310763 3/21/25

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
717 W. Sprague Ave., Suite 1600
Spokane, WA 99201
Telephone: (509) 453-9555
Fax: (509) 747-2322

Exhibit B

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Lukins & Annis, P.S.

SUPERIOR COURT OF WASHINGTON IN AND FOR SPOKANE COUNTY

CITY OF SPOKANE VALLEY, a municipal
corporation,

Plaintiff,

v.

ALBERT W. MERKEL, an individual,

Defendant.

NO. 25-2-00710-32

PLAINTIFF'S FIRST SET OF
INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS
TO DEFENDANT
**DEFENDANT'S ANSWERS,
RESPONSES AND OBJECTIONS
THERE TO**

TO: DEFENDANT ALBERT W. MERKEL.

AND TO: PATRICK J. KIRBY and PATRICK J. KIRBY LAW OFFICE, PLLC, your
counsel of record.

Plaintiff City of Spokane Valley ("Plaintiff") hereby requests that you respond to the
following interrogatories and requests for production of documents.

The following interrogatories are served pursuant to Civil Rule 33. To facilitate
preparation of answers and responses, Plaintiff will provide an electronic copy of this document.
Please insert your answers in the space provided following each interrogatory. Completed
responses should be served on the undersigned counsel. Each interrogatory is to be answered
fully and separately, in writing and under oath, within thirty (30) days after service of these
interrogatories upon you.

PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANANSWERS,
RESPONES AND OBJECTIONS THERETO: 1

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
717 W Sprague Ave., Suite 1600
Spokane, WA 99201
Telephone: (509) 455-9355
Fax: (509) 747-2523

01310763 6/9/25

1
2 **RFP NO. 7:** For each Nextdoor account identified in Interrogatory No. 13, please produce
3 complete copies of all of your posts on your accounts, including your posts on any 3rd party
4 accounts, concerning the City of Spokane Valley's actions, initiatives, proposals, resolutions,
5 spending, and/or councilmember meetings from January 2024 to the present.
6

7 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
8 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";
9 seeks private communications protected Defendant's right to privacy by RCW
10 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
11 invasion of private affairs protected by Washington State Constitution Article 1,
12 Section 7. Imposed to create an undue burden and expense on the Defendant.

13 **RESPONSE:**
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15 **RFP NO. 8:** For each Nextdoor account identified in Interrogatory No. 13, please produce
16 complete copies of your posts, including all of your posts on any 3rd party accounts, concerning
17 or containing citizen polls and/or surveys conducted by you from January 2024 to the present.

18 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
19 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";
20 seeks private communications protected Defendant's right to privacy by RCW
21 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
22 invasion of private affairs protected by Washington State Constitution Article 1,
23 Section 7. Imposed to create an undue burden and expense on the Defendant.

24 **RESPONSE:**
25

1 **RFP NO. 10:** For each Facebook account identified in Interrogatory No. 14, please
2 produce complete copies of all of your posts, including all of your posts on any 3rd party accounts,
3 concerning the City of Spokane Valley's actions, initiatives, proposals, resolutions, spending,
4 and/or councilmember meetings from January 2024 to the present.

5 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
6 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";
7 seeks private communications protected Defendant's right to privacy by RCW
8 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
9 invasion of private affairs protected by Washington State Constitution Article 1,
Section 7. Imposed to create an undue burden and expense on the Defendant.

10 **RESPONSE:**

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12 **RFP NO. 11:** For each Facebook account identified in Interrogatory No. 14, please
13 produce complete copies of all of your posts, including all of your posts on any 3rd party accounts,
14 concerning or containing citizen polls and/or surveys conducted by you from January 2024 to the
15 present.
16

17 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
18 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";
19 seeks private communications protected Defendant's right to privacy by RCW
20 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
invasion of private affairs protected by Washington State Constitution Article 1,
Section 7. Imposed to create an undue burden and expense on the Defendant.

21 **RESPONSE:**
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1 **INTERROGATORY NO. 15:** Please identify each social media account that you have
2 used and/or maintained on the X (formerly, Twitter) website and/or application from January
3 2024 to the present. For each account identified, please include:

- 4 (a) the name and address of the service provider;
5 (b) the name and address of the account holder;
6 (c) your username or avatar; and
7 (d) the URL where the account was/is available.

9 **OBJECTION:** Imposed to create an undue burden and expense on the Defendant.

10 **ANSWER:** Defendant will supplement after the Court rules on Defendant's CR
11 12(b)(6) Motion to Dismiss filed April 3, 2025.

12 **RFP NO. 12:** For each X (formerly, Twitter) account identified in Interrogatory No. 15,
13 please produce complete copies of all of your posts, including all of your posts on any 3rd party
14 accounts, concerning the Mayor, City Manager, other Councilmembers, and/or other the City
15 Attorney for the City of Spokane Valley from January 2024 to the present.

17 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
18 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";
19 seeks private communications protected Defendant's right to privacy by RCW
20 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
21 invasion of private affairs protected by Washington State Constitution Article 1,
22 Section 7. Imposed to create an undue burden and expense on the Defendant.

23 **RESPONSE:**

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25
PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANANSWERS,
RESPONES AND OBJECTIONS THERETO: 19

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
717 W Sprague Ave., Suite 1600
Spokane, WA 99201
Telephone: (509) 453-0555
Fax: (509) 747-2323

01310793 6/9/25

1 **RFP NO. 13:** For each X (formerly, Twitter) account identified in Interrogatory No. 15,
2 please produce complete copies of all of your posts, including your posts on any 3rd party
3 accounts, concerning the City of Spokane Valley's actions, initiatives, proposals, resolutions,
4 spending and/or councilmember meetings from January 2024 to the present.

5 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
6 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";
7 seeks private communications protected Defendant's right to privacy by RCW
8 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
9 invasion of private affairs protected by Washington State Constitution Article 1,
Section 7. Imposed to create an undue burden and expense on the Defendant.

10 **RESPONSE:**

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14 **RFP NO. 14:** For each X (formerly, Twitter) account identified in Interrogatory No. 15,
15 please produce complete copies of all of your posts, including your posts on any 3rd party
16 accounts, concerning or containing citizen polls and/or surveys conducted by you from January
17 2024 to the present.

18 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
19 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";
20 seeks private communications protected Defendant's right to privacy by RCW
21 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
22 invasion of private affairs protected by Washington State Constitution Article 1,
23 Section 7. Imposed to create an undue burden and expense on the Defendant.

24 **RESPONSE:**

25
PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANANSWERS,
RESPONES AND OBJECTIONS THERETO: 20

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
717 W Sprague Ave., Suite 1600
Spokane, WA 99201
Telephone: (509) 455-9555
Fax: (509) 747-2323

01310763 6/9/25

1 **RESPONSE:**

2
3 **RFP NO. 19:** For each internet-based social media account identified in Interrogatory
4 No. 17, please produce complete copies of all of your posts, including all of your posts on any
5 3rd party accounts, concerning the City of Spokane Valley's actions, initiatives, proposals,
6 resolutions, spending and/or councilmember meetings from January 2024 to the present.

7 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
8 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";
9 seeks private communications protected Defendant's right to privacy by RCW
10 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
11 invasion of private affairs protected by Washington State Constitution Article 1,
12 Section 7. Imposed to create an undue burden and expense on the Defendant.

11 **RESPONSE:**

12 **RFP NO. 20:** For each internet-based social media account identified in Interrogatory
13 No. 17, please produce complete copies of all of your posts, including all of your posts on any
14 3rd party accounts, concerning or containing citizen polls and/or surveys conducted by you from
15 January 2024 to the present.

16 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
17 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";
18 seeks private communications protected Defendant's right to privacy by RCW
19 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
20 invasion of private affairs protected by Washington State Constitution Article 1,
21 Section 7. Imposed to create an undue burden and expense on the Defendant.

21 **RESPONSE:**

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PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANANSWERS,
RESPONES AND OBJECTIONS THERETO: 24

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
717 W Sprague Ave., Suite 1600
Spokane, WA 99201
Telephone: (509) 455-9555
Fax: (509) 747-2323

01310763 6/9/25

1 **RFP NO. 24:** For each phone number identified in Interrogatory No. 19, please produce
2 complete copies of all non-privileged phone and/or text message communications concerning the
3 City of Spokane Valley's actions, initiatives, proposals, resolutions, spending and/or
4 councilmember meetings from January 2024 to the present.

5 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
6 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";
7 seeks private communications protected Defendant's right to privacy by RCW
8 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
9 invasion of private affairs protected by Washington State Constitution Article 1,
10 Section 7. . Imposed to create an undue burden and expense on the Defendant.

11 **RESPONSE:**

12 **RFP NO. 25:** Please produce copies of all communications between you and Jodie
13 Buehler (including any social media posts, social media comments, direct messages, text
14 messages, emails, etc.) concerning the Mayor, City Manager, other Councilmembers, and/or
15 other the City Attorney for the City of Spokane Valley from January 2024 to the present.

16 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
17 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";
18 seeks private communications protected Defendant's right to privacy by RCW
19 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
20 invasion of private affairs protected by Washington State Constitution Article 1,
21 Section 7. Imposed to create an undue burden and expense on the Defendant.

22 **ANSWER:**

23
24
25

PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANANSWERS,
RESPONES AND OBJECTIONS THERETO: 27

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
717 W Sprague Ave., Suite 1600
Spokane, WA 99201
Telephone: (509) 455-9555
FLN: (509) 747-2323

01310763 6/9/25

1 CERTIFICATION

2 THE UNDERSIGNED ATTORNEY for Defendant has read the foregoing Answers and
3 Responses to Plaintiff's First Set of Interrogatories and Requests for Production of Documents,
4 and they are in compliance with CR 26(g).

5 DATED this 9th day of June, 2025.

6
7 Print: Patrick J. Kirby

8 Signature: [Signature]

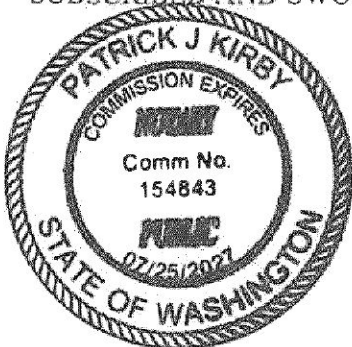
9
10 VERIFICATION

11 STATE OF WASHINGTON)
12) ss.
13 County of Spokane)

14 **ALBERT MERKEL**, being first duly sworn upon oath, deposes and says that he is the
15 Defendant in the above-entitled action and has read the foregoing answers to Interrogatories,
16 knows the contents thereof, and believes the same to be true and correct to the best of his
17 knowledge.

18 [Signature]
19 ALBERT MERKEL

20 SUBSCRIBED AND SWORN to before me this 6th day of June, 2025.



[Signature]
Notary Public in and for the State of
Washington, residing in Spokane
My commission expires: 7/25/2027

PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANT: ANSWERS,
RESPONSES AND OBJECTIONS THERETO: 35

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
717 W. Sprague Ave., Suite 1600
Spokane, WA 99201
Telephone: (509) 455-9222
Fax: (509) 455-7911

Exhibit C

Zaine M. Yzaguirre

From: Reid G. Johnson
Sent: Thursday, June 26, 2025 6:25 AM
To: 'Patrick J. Kirby'
Cc: Michael J. Hines; Zaine M. Yzaguirre; Kirsten Price
Subject: RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Pat:

We will get you our position on your objections in writing this week, potentially today. Given your request, should we try to confer either tomorrow or Monday? I apologize as I've been out of office since last week.

On your second note, the City will not stipulate to your proposal. You will need to seek court approval for your proposed protective order.

Reid Johnson
PRINCIPAL
O: (509) 455-9555

 **Lukins & Annis, P.S.** 717 W Sprague Ave., Suite 1600 Spokane, WA 99201

From: Patrick J. Kirby <pkirby@pkirbylaw.com>
Sent: Tuesday, June 24, 2025 1:33 PM
To: Reid G. Johnson <rjohnson@lukins.com>
Cc: Michael J. Hines <mhines@lukins.com>; Zaine M. Yzaguirre <zyzaguirre@lukins.com>; Kirsten Price <kprice@lukins.com>
Subject: RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Reid, I am available Thursday afternoon June 26. My objections to your discovery requests speak for themselves. Please send me an email detailing your questions or concerns regarding my objections to your voluminous discovery requests before we meet so that we can spend our time productively conferring.

Will you stipulate to a protective order Protective Order which will prevent disclosure of Mr. Merkel's private electronic communications from becoming public records until after the court can review the communications *in camera* to determine if they are "public records" as defined by Washington state case law so as to protect Mr. Merkel's right to privacy by RCW 42.46.050 and 42.56.230 and the 4th and 14th Amendments to the U.S. Constitution, and Article 1, Section 7 of the Washington State Constitution?

Patrick J. Kirby



P. 509-835-1200
WWW.PKIRBYLAW.COM
4353 S. Greystone Lane
Spokane, WA 99223

The information contained in this email is protected by the attorney-client or attorney work product privilege. If you are not the intended recipient of this email please notify me in a reply email and delete this message. Thank you.

From: Reid G. Johnson <rjohnson@lukins.com>
Sent: Tuesday, June 24, 2025 8:52 AM
To: Patrick J. Kirby <pkirby@pkirbylaw.com>
Cc: Michael J. Hines <mhines@lukins.com>; Zaine M. Yzaguirre <zyzaguirre@lukins.com>; Kirsten Price <kprice@lukins.com>
Subject: RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Pat:

My apologies on the delayed response. We have effectively allowed your client to wait to produce responsive records until after the July 18 hearing date. We will permit the extension until two weeks after the hearing date if the Motion to Dismiss is denied.

I would also like to set a time to confer about Mr. Merkel's discovery objections. Are you available either Thursday or Friday this week?

Thanks,

Reid Johnson
PRINCIPAL
O: (509) 455-9555

📍 **Lukins & Annis, P.S.** 717 W Sprague Ave., Suite 1600 Spokane, WA 99201

From: Patrick J. Kirby <pkirby@pkirbylaw.com>
Sent: Monday, June 9, 2025 3:26 PM
To: Reid G. Johnson <rjohnson@lukins.com>; Zaine M. Yzaguirre <zyzaguirre@lukins.com>; Michael J. Hines <mhines@lukins.com>
Cc: Fiona Spring <fspring@lukins.com>
Subject: RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Counsel attached are Defendant Merkel's Answers, Responses and Objections to Plaintiff City SV Rogs & RFPs which I hand-delivered this afternoon to your office.

Please let me know if want to set a date to confer regarding Defendant Merkel's objections to your discovery requests. I would like to know if you would be willing to stipulate to a Protective Order which would not require Mr. Merkel to answer or respond until after the July 18 hearing on Defendant's Motion To Dismiss to save Mr. Merkel the unnecessary expense and costs of attorneys' fees in the event Plaintiff's Complaint is dismissed. At present time there is Civil Case Schedule Order, and no discovery cut off date, and therefore no prejudice to the Plaintiff City SV to extend time until after the July 18 hearing on the Motion To Dismiss for Mr. Merkel to respond to discovery requests.

In the event the Court does not grant Defendant' Motion To Dismiss, I also propose a Protective Order which will prevent disclosure of Mr. Merkel's private electronic communications from becoming public records until after the court can review the communications *in camera* to determine if they are "public records" as defined by Washington state case law so as to protect Mr. Merkel's right to privacy by RCW 42.46.050 and 42.56.230 and the 4th and 14th Amendments to the U.S. Constitution, and Article 1, Section 7 of the Washington State Constitution.

Patrick J. Kirby



P. 509-835-1200
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4153 S. Greystone Lane
Spokane, WA 99223

The information contained in this e-mail is privileged and by the attorney-client or attorney work product privilege. If you are not the intended recipient of this e-mail please notify me in a reply e-mail and delete this e-mail. Thank you.

From: Patrick J. Kirby

Sent: Friday, May 30, 2025 12:06 PM

To: 'Reid G. Johnson' <rjohnson@lukins.com>; 'Fiona Spring' <fspring@lukins.com>; 'Michael J. Hines' <mhines@lukins.com>; 'Zaine M. Yzaguirre' <zyzaguirre@lukins.com>

Cc: 'Fiona Spring' <fspring@lukins.com>

Subject: RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Counsel attached is Defendant Merkel's Notice of Hearing July 18, 2025, 2:30 p.m. on Motion For Protective Order which was filed with the clerk of court today and a copy hand delivered to your office today.

Exhibit D

Zaine M. Yzaguirre

From: Patrick J. Kirby <pkirby@pkirbylaw.com>
Sent: Monday, June 30, 2025 3:28 PM
To: Reid G. Johnson
Cc: Michael J. Hines; Zaine M. Yzaguirre; Kirsten Price
Subject: RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Reid, thank you for your email below expending time until two weeks after the July 18, 2025, hearing on Defendant's Motion To Dismiss for Mr. Merkel to supplement his Answers, Response, and Objections—provided the Court denies Defendant's Motion To Dismiss.

As I told you today during our phone conference, without waiving his objections, Mr. Merkel will provide you the log in credentials for his Next Door social media account in his First Supplemental Answers, Responses, and Objections to Plaintiff's First Set of Rogs/RFP's, which I plan to serve upon you tomorrow. Mr. Merkel will accordingly supplement his Answers and Responses, if necessary, after the court rulings on July 18.

Mr. Merkel will cooperate with you and your client the City of SV in providing you with whatever information you need to access his Next Door social media account. Mr. Merkel provided his log in credentials and authentication information to City Attorney Kelly Konkright in January before you filed your Complaint, and Attorney Konkright did in fact log into Mr. Merkel's Next Door account and had access all its data. Nevertheless, Mr. Merkel is willing continue to cooperate with the City of SV to access all the data on his Next Door account. Mr. Merkel's postings on his Next Door social media account are available to any user of the social media platform—including the City of Spokane Valley—and as such have always been available to the City.

However, as I indicated today during our telephonic discovery conference, Mr. Merkel objects to the disclosure of his private electronic communications protected his right to privacy by RCW 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and invasion of private affairs protected by Washington State Constitution Article 1, Section 7. See *T.S. v. Boy Scouts Of America*, 157 Wn.2d 416 (2006).

Furthermore, as I explained to you today during our phone conference, Councilmember Merkel's communications with his political groups regarding his political activities and political dissident beliefs, and the identities of the members of his political groups, are privileged communications protected by his right to privacy in freedom of group and political association and freedom of speech under the First Amendment to the U.S. Constitution. See *Eugster v. City of Spokane*, 121 Wn. App. 799 (Div. 3 2004), review denied 153 Wn.2d 1012 (2005).

I will file a CR 26(c) Motion For Protective Order for protect Mr. Merkel from disclosing to the City of SV his private personal communications and his political communications, or in the alternative, a protective order prevent the City from disclosing in response to a public records request any such materials until such time the Court may conduct an *in camera* inspection to determine what, if any of it, meets the definition of "public records" pursuant to 42.56.010 (3), as interpreted by *Nissen v. Pierce County*, 183 Wn.2d 863 (2015), and further clarified by *West v. Puyallup*, 2 Wn. App.2d 586 (Div. 2 2018).

Patrick J. Kirby



PATRICK JKIRBY
LAW OFFICE PLLC

P. 509-835-1200
WWW.PKIRBYLAW.COM
4350 S. Greystone Lane
Spokane, WA 99223

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From: Reid G. Johnson <rjohnson@lukins.com>
Sent: Monday, June 30, 2025 10:26 AM
To: Patrick J. Kirby <pkirby@pkirbylaw.com>
Cc: Michael J. Hines <mhines@lukins.com>; Zaine M. Yzaguirre <zyzaguirre@lukins.com>; Kirsten Price <kprice@lukins.com>
Subject: RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Pat:

With respect to your offer to provide Mr. Merkel's social media communications, is your client willing to commit to doing everything necessary to access the social media pages, including completing the two-factor authentication process in person? I will take this to my client to determine if this something that they can live with, but I'm confident they will need some additional assurances that Mr. Merkel will willingly assist with providing access.

Best,

Exhibit E

RECEIVED

JUL 1 2025

Lukins & Annis, P.S.

SUPERIOR COURT OF WASHINGTON IN AND FOR SPOKANE COUNTY

CITY OF SPOKANE VALLEY, a municipal
corporation,

Plaintiff,

v.

ALBERT W. MERKEL, an individual,

Defendant.

NO. 25-2-00710-32

**PLAINTIFF'S FIRST SET OF
INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS
TO DEFENDANT
DEFENDANT'S FIRST
SUPPLEMENTAL ANSWERS,
RESPONSES AND OBJECTIONS-
THERE TO**

TO: DEFENDANT ALBERT W. MERKEL

AND TO: PATRICK J. KIRBY and PATRICK J. KIRBY LAW OFFICE, PLLC, your
counsel of record.

Plaintiff City of Spokane Valley ("Plaintiff") hereby requests that you respond to the
following interrogatories and requests for production of documents.

The following interrogatories are served pursuant to Civil Rule 33. To facilitate
preparation of answers and responses, Plaintiff will provide an electronic copy of this document.
Please insert your answers in the space provided following each interrogatory. Completed
responses should be served on the undersigned counsel. Each interrogatory is to be answered

**PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDAN FIRST SUPPL.
ANSWERS, RESPONES AND OBJECTIONS
THERE TO: 1**

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
717 W Sprague Ave., Suite 1600
Spokane, WA 99201
Telephone: (509) 455-9555
Fax: (509) 747-2323

01310763 7/1/25

1 **INTERROGATORY NO. 10:** Have you ever been convicted of or pled guilty to a
2 crime? If so, state for each:

- 3 (a) the name of the crime charged and the crime convicted of;
4 (b) the date of the charge and conviction;
5 (c) the date and place of the conviction and sentence imposed; and
6 (d) the court and case number.

7
8 **OBJECTION:** Not reasonably calculated to lead to the discovery of admissible
9 evidence; imposed to embarrass the defendant; imposed to create an undue burden
10 and expense on the Defendant; information available from other sources-public
11 records.

12 **ANSWER:**

13 **FIRST SUPPLEMENTAL ANSWER:** *Reckless driving. See copy of Spokane County*
14 *District Court Docket, case No. 9Z0287431 SV attached Production No. 2 Bates Nos.*
02_0001 to 0005).

15 **RFP NO. 2:** Please produce all documents concerning your answer to the previous
16 interrogatory.

17 **OBJECTION:** Not reasonably calculated to lead to the discovery of admissible
18 evidence; impose to embarrass the defendant; imposed to create an undue burden
19 and expense on the Defendant; information available from other sources-public
20 records.

21 **RESPONSE:**

22 **FIRST SUPPLEMENTAL RESPONSE:** *See copy of Spokane County District Court*
23 *Docket, case No. 9Z0287431 SV attached Production No. 2 (Bates Nos. 02_0001 to*
24 *0005).*

25
PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDAN FIRST SUPPL.
ANSWERS, RESPONES AND OBJECTIONS
THERE TO: 13

LAW OFFICES OF
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717 W Sprague Ave., Suite 1600
Spokane, WA 99201
Telephone: (509) 455-9555
Fax: (509) 747-2323

1 **INTERROGATORY NO. 11:** Have you ever given sworn testimony, such as but not
2 limited to, deposition testimony, testimony in court, testimony before an administrative law
3 judge, written declaration testimony, witness testimony, etc.? If so, identify the date of such
4 testimony, the caption name of the matter, the cause number, and the jurisdiction.

5 **OBJECTION:** Imposed to create an undue burden and expense on the Defendant.

6 **ANSWER:** Defendant will supplement after the Court rules on Defendant's CR
7 12(b)(6) Motion to Dismiss filed April 3, 2025.

8 **FIRST SUPPLEMENTAL ANSWER:** Defendant testified at hearing to terminate his
9 probation for reckless driving; November 2021. See Production No. 2 (Bates Nos.
10 02_0001 to 0005).

11
12 **RFP NO. 3:** Please produce all documents concerning your answer to the previous
13 interrogatory.

14 **OBJECTION:** Imposed to create an undue burden and expense on the Defendant.

15 **RESPONSE:** Defendant will supplement after the Court rules on Defendant's CR
16 12(b)(6) Motion to Dismiss filed April 3, 2025.

17 **FIRST SUPPLEMENTAL RESPONSE:** See Production No. 2(Bates Nos. 02_0001 to
18 0005).

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PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDAN FIRST SUPPL.
ANSWERS, RESPONES AND OBJECTIONS
THERE TO: 14

LAW OFFICES OF
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A PROFESSIONAL SERVICE CORPORATION
717 W Sprague Ave., Suite 1600
Spokane, WA 99201
Telephone: (509) 455-9555
Fax: (509) 747-2323

01310763 7/1/25

1 **RFP NO. 10:** For each Facebook account identified in Interrogatory No. 14, please
2 produce complete copies of all of your posts, including all of your posts on any 3rd party accounts,
3 concerning the City of Spokane Valley's actions, initiatives, proposals, resolutions, spending,
4 and/or councilmember meetings from January 2024 to the present.

5 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
6 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";
7 seeks private communications protected Defendant's right to privacy by RCW
8 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
9 invasion of private affairs protected by Washington State Constitution Article 1,
10 Section 7. Imposed to create an undue burden and expense on the Defendant.

11 *Defendant Merkel's private communications with his political groups regarding his*
12 *political activities and political dissident beliefs, and the identities of the members of*
13 *his political groups, are privileged and protected his right to privacy in freedom of*
14 *group and political association and freedom of speech under the First Amendment to*
15 *the U.S. Constitution.*

16 **RESPONSE:**

17 **FIRST SUPPLEMENTAL RESPONSE:** Defendant Merkel's public postings on
18 Facebook are available to Plaintiff City and any user of the platform.

19 **RFP NO. 11:** For each Facebook account identified in Interrogatory No. 14, please
20 produce complete copies of all of your posts, including all of your posts on any 3rd party accounts,
21 concerning or containing citizen polls and/or surveys conducted by you from January 2024 to the
22 present.

23 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
24 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";
25 seeks private communications protected Defendant's right to privacy by RCW
42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
invasion of private affairs protected by Washington State Constitution Article 1,
Section 7. Imposed to create an undue burden and expense on the Defendant.

1 *Defendant Merkel's private communications with his political groups regarding his*
2 *political activities and political dissident beliefs, and the identities of the members of*
3 *his political groups, are privileged and protected his right to privacy in freedom of*
4 *group and political association and freedom of speech under the First Amendment to*
5 *the U.S. Constitution.*

6 **RESPONSE:**

7 **FIRST SUPPLEMENTAL RESPONSE:** *Defendant Merkel's public postings on*
8 *Facebook are available to Plaintiff City and any user of the platform.*

9 **INTERROGATORY NO. 15:** Please identify each social media account that you have
10 used and/or maintained on the X (formerly, Twitter) website and/or application from January
11 2024 to the present. For each account identified, please include:

- 12 (a) the name and address of the service provider;
13 (b) the name and address of the account holder;
14 (c) your username or avatar; and
15 (d) the URL where the account was/is available.

16 **OBJECTION:** *Imposed to create an undue burden and expense on the Defendant.*

17 **ANSWER:** Defendant will supplement after the Court rules on Defendant's CR
18 12(b)(6) Motion to Dismiss filed April 3, 2025.

19 **FIRST SUPPLEMENTAL ANSWER:** *See First Supplemental Answer No. 13.*

20 **RFP NO. 12:** For each X (formerly, Twitter) account identified in Interrogatory No. 15,
21 please produce complete copies of all of your posts, including all of your posts on any 3rd party
22 accounts, concerning the Mayor, City Manager, other Councilmembers, and/or other the City
23 Attorney for the City of Spokane Valley from January 2024 to the present.
24
25

PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDAN FIRST SUPPL.
ANSWERS, RESPONES AND OBJECTIONS
THERETO: 22

LAW OFFICES OF
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A PROFESSIONAL SERVICE CORPORATION
717 W Sprague Ave, Suite 1600
Spokane, WA 99201
Telephone: (509) 455-9555
Fax: (509) 747-2323

1 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
2 to lead to the discovery of admissible evidence, vague, and ambiguous “concerning”;
3 seeks private communications protected Defendant’s right to privacy by RCW
4 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
invasion of private affairs protected by Washington State Constitution Article 1,
Section 7. Imposed to create an undue burden and expense on the Defendant.

5
6 *Defendant Merkel’s private communications with his political groups regarding his*
7 *political activities and political dissident beliefs, and the identities of the members of*
8 *his political groups, are privileged and protected his right to privacy in freedom of*
9 *group and political association and freedom of speech under the First Amendment to*
10 *the U.S. Constitution.*

11 **RESPONSE:**

12 **FIRST SUPPLEMENTAL RESPONSE:** Defendant Merkel’s public postings on X
13 are available to Plaintiff City and any user of the platform.

14 **RFP NO. 13:** For each X (formerly, Twitter) account identified in Interrogatory No. 15,
15 please produce complete copies of all of your posts, including your posts on any 3rd party
16 accounts, concerning the City of Spokane Valley’s actions, initiatives, proposals, resolutions,
17 spending and/or councilmember meetings from January 2024 to the present.

18 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
19 to lead to the discovery of admissible evidence, vague, and ambiguous “concerning”;
20 seeks private communications protected Defendant’s right to privacy by RCW
21 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
invasion of private affairs protected by Washington State Constitution Article 1,
Section 7. Imposed to create an undue burden and expense on the Defendant.

22 *Defendant Merkel’s private communications with his political groups regarding his*
23 *political activities and political dissident beliefs, and the identities of the members of*
24 *his political groups, are privileged and protected his right to privacy in freedom of*
25 *group and political association and freedom of speech under the First Amendment to*
the U.S. Constitution.

1 **INTERROGATORY NO. 18:** Please identify each and every email address that you
2 have used and/or maintained from January 2024 to the present.

3 **OBJECTION:** Imposed to create an undue burden and expense on the Defendant.

4 **ANSWER:** Defendant will supplement after the Court rules on Defendant's CR
5 12(b)(6) Motion to Dismiss filed April 3, 2025.

6
7 **RFP NO. 21:** For each email address identified in Interrogatory No. 18, please produce
8 complete copies of all non-privileged email communications concerning the Mayor, City
9 Manager, other Councilmembers, and/or other the City Attorney for the City of Spokane Valley
10 from January 2024 to the present.

11 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
12 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";
13 seeks private communications protected Defendant's right to privacy by RCW
14 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
invasion of private affairs protected by Washington State Constitution Article 1,
Section 7. Imposed to create an undue burden and expense on the Defendant.

15 *Defendant Merkel's private communications with his political groups regarding his*
16 *political activities and political dissident beliefs, and the identities of the members of*
17 *his political groups, are privileged and protected his right to privacy in freedom of*
18 *group and political association and freedom of speech under the First Amendment to*
the U.S. Constitution.

19 **RESPONSE:**

20
21 **RFP NO. 22:** For each email address identified in Interrogatory No. 18, please produce
22 complete copies of all non-privileged email communications concerning the City of Spokane
23 Valley's actions, initiatives, proposals, resolutions, spending and/or councilmember meetings
24 from January 2024 to the present.
25

PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDAN FIRST SUPPL.
ANSWERS, RESPONES AND OBJECTIONS
THERE TO: 31

LAW OFFICES OF
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1 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
2 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";
3 seeks private communications protected Defendant's right to privacy by RCW
4 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
invasion of private affairs protected by Washington State Constitution Article 1,
Section 7. Imposed to create an undue burden and expense on the Defendant.

5 *Defendant Merkel's private communications with his political groups regarding his*
6 *political activities and political dissident beliefs, and the identities of the members of*
7 *his political groups, are privileged and protected his right to privacy in freedom of*
8 *group and political association and freedom of speech under the First Amendment to*
9 *the U.S. Constitution.*

10 **RESPONSE:**

11 **INTERROGATORY NO. 19:** Please identify each and every phone number that you
12 have used and/or maintained from January 2024 to the present.

13 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
14 to lead to the discovery of admissible evidence; seeks private information protected
15 Defendant's right to privacy by RCW 42.46.050 and 42.56.230 and the 4th and 14th
16 Amendments to U.S. Constitution, and invasion of private affairs protected by
Washington State Constitution Article 1, Section 7. Imposed to create an undue
burden and expense on the Defendant.

17 *Defendant Merkel's private communications with his political groups regarding his*
18 *political activities and political dissident beliefs, and the identities of the members of*
19 *his political groups, are privileged and protected his right to privacy in freedom of*
20 *group and political association and freedom of speech under the First Amendment to*
21 *the U.S. Constitution.*

22 **ANSWER:**

23
24
25
PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDAN FIRST SUPPL.
ANSWERS, RESPONES AND OBJECTIONS
THERE TO: 32

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Spokane, WA 99201
Telephone: (509) 455-9555
Fax: (509) 747-2323

01310763 7/1/25

1 **RFP NO. 23:** For each phone number identified in Interrogatory No. 19, please produce
2 complete copies of all non-privileged phone and/or text message communications concerning the
3 Mayor, City Manager, other Councilmembers, and/or other the City Attorney for the City of
4 Spokane Valley from January 2024 to the present.

5
6 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
7 to lead to the discovery of admissible evidence, vague, and ambiguous “concerning”;
8 seeks private communications protected Defendant’s right to privacy by RCW
9 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
10 invasion of private affairs protected by Washington State Constitution Article 1,
11 Section 7. Imposed to create an undue burden and expense on the Defendant.

12 *Defendant Merkel’s private communications with his political groups regarding his
13 political activities and political dissident beliefs, and the identities of the members of
14 his political groups, are privileged and protected his right to privacy in freedom of
15 group and political association and freedom of speech under the First Amendment to
16 the U.S. Constitution.*

17 **RESPONSE:**

18
19 **RFP NO. 24:** For each phone number identified in Interrogatory No. 19, please produce
20 complete copies of all non-privileged phone and/or text message communications concerning the
21 City of Spokane Valley’s actions, initiatives, proposals, resolutions, spending and/or
22 councilmember meetings from January 2024 to the present.

23 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
24 to lead to the discovery of admissible evidence, vague, and ambiguous “concerning”;
25 seeks private communications protected Defendant’s right to privacy by RCW
42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
invasion of private affairs protected by Washington State Constitution Article 1,
Section 7. . Imposed to create an undue burden and expense on the Defendant.

1 *Defendant Merkel's private communications with his political groups regarding his*
2 *political activities and political dissident beliefs, and the identities of the members of*
3 *his political groups, are privileged and protected his right to privacy in freedom of*
4 *group and political association and freedom of speech under the First Amendment to*
5 *the U.S. Constitution.*

6
7 **RESPONSE:**

8 **RFP NO. 25:** Please produce copies of all communications between you and Jodie
9 Buehler (including any social media posts, social media comments, direct messages, text
10 messages, emails, etc.) concerning the Mayor, City Manager, other Councilmembers, and/or
11 other the City Attorney for the City of Spokane Valley from January 2024 to the present.

12 **OBJECTION:** Overly broad seeks information and data not reasonably calculated
13 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";
14 seeks private communications protected Defendant's right to privacy by RCW
15 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and
16 invasion of private affairs protected by Washington State Constitution Article 1,
17 Section 7. Imposed to create an undue burden and expense on the Defendant.

18 *Defendant Merkel's private communications with his political groups regarding his*
19 *political activities and political dissident beliefs, and the identities of the members of*
20 *his political groups, are privileged and protected his right to privacy in freedom of*
21 *group and political association and freedom of speech under the First Amendment to*
22 *the U.S. Constitution.*

23
24 **ANSWER:**

25
PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDAN FIRST SUPPL.
ANSWERS, RESPONES AND OBJECTIONS
THERETO: 34

LAW OFFICES OF
LUKINS & ANNIS, PS
A PROFESSIONAL SERVICE CORPORATION
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Spokane, WA 99201
Telephone: (509) 455-9555
Fax: (509) 747-2323

01310763 7/1/25

Exhibit F

Zaine M. Yzaguirre

From: Patrick J. Kirby <pkirby@pkirbylaw.com>
Sent: Wednesday, July 2, 2025 10:55 AM
To: Zaine M. Yzaguirre
Cc: Reid G. Johnson; Michael J. Hines; Kirsten Price
Subject: RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Zane,

Mr. Merkel will be providing the City with *all the data from his Next Door social media account from January 1, 2024, to present*. There are no private communications on his Next Door account. But he is presently having technical difficulties downloading it. Once he can access the Next Door data, he will forward it to City Attorney Kelly Konkright or you or both whichever you like, or cooperate with the City to allow the City to download the data directly. On January 3, 2025, Mr. Merkel allowed the City to link his Next Door account with the City's Page Freezer software and that was accomplished on January 4, 2025. Please verify whether the City's Page Freezer software has access to and has captured the data for his Next Door public postings before January 4, 2025, and/or after to January 4, 2025.

Mr. Merkel will cooperate in providing the City with access to the data for *all his public postings on all his social media accounts*, however, Mr. Merkel will not provide the City with data for any of his private electronic communications. [See my objections to your discovery requests]. Mr. Merkel will need technical assistance from the City's IT department downloading the data for his public postings *without downloading the data for his private electronic communications* on his social media platforms. However, ***Mr. Merkel is not conceding that any of his public postings or his private communications constitute "public records."***

Patrick J. Kirby



P. 509-335-1200
WWW.PKIRBYLAW.COM
4050 S. Greystone Lane
Spokane, WA 99223

Exhibit G

Zaine M. Yzaguirre

From: Patrick J. Kirby <pkirby@pkirbylaw.com>
Sent: Thursday, July 10, 2025 10:00 AM
To: Reid G. Johnson
Cc: Michael J. Hines; Zaine M. Yzaguirre; Kirsten Price
Subject: RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Reid, file your response.

Patrick J. Kirby



P: 509-835-1200
WWW.PKIRBYLAW.COM
4353 S. Greystone Lane
Spokane, WA 99223

The information contained in this email is protected by the attorney-client or attorney work product privilege. If you are not the intended recipient of this email please notify me in a reply email and delete this message. Thank you.

From: Reid G. Johnson <rjohnson@lukins.com>
Sent: Thursday, July 10, 2025 5:43 AM
To: Patrick J. Kirby <pkirby@pkirbylaw.com>
Cc: Michael J. Hines <mhines@lukins.com>; Zaine M. Yzaguirre <zyzaguirre@lukins.com>; Kirsten Price <kprice@lukins.com>
Subject: RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Pat:

I have reviewed your Motion for Protective Order and specifically, your proposed order. I believe there is some confusion between the relief you are seeking and what has been discussed between us. Based on your email below and on our discussion at the CR 26 conference, I was under the impression that Mr. Merkel is refusing to produce his emails, text messages, and notes regarding city business in discovery in any fashion. This was what we discussed at our conference, and what you've stated below. However, your proposed order seems more limited in that you only seek protection from releasing these documents to members of the public in response to public records requests, and possibly some protections for handling these documents throughout the case. Please correct me if I am wrong.

Given the relief you are seeking, I've discussed this with the City and have authority to present the following proposal: If Mr. Merkel produces these records in discovery (i.e. ROG Nos. 19-21, 24 and RFP Nos. 21-28), the City will not disclose the records outside the scope of this litigation until there is a court order or agreement between the parties permitting such disclosure. The City is also willing to enter into a standard protective order governing the use of any confidential information that is exchanged between the parties.

The bottom line is that the City needs these records in discovery to facilitate this case, but has no issue with holding off on producing the records in response to public records requests until the conclusion of this case. We also have reservations about having an *in camera* review by Judge Anderson, mainly because we do not believe the parties can stipulate to such a review without court approval. We believe this proposal facilitates the exchange of records and protects your client until the issue is resolved by the court or the parties.

Please let me know if this proposal is acceptable to Mr. Merkel or if you would like to discuss further.

Best,

Reid Johnson
PRINCIPAL
O: (509) 455-9555

 **Lukins & Annis, P.S.** 717 W Sprague Ave., Suite 1600 Spokane, WA 99201

From: Patrick J. Kirby <pkirby@pkirbylaw.com>
Sent: Monday, June 30, 2025 3:28 PM
To: Reid G. Johnson <rjohnson@lukins.com>
Cc: Michael J. Hines <mhines@lukins.com>; Zaine M. Yzaguirre <zyzaguirre@lukins.com>; Kirsten Price <kprice@lukins.com>
Subject: RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Reid, thank you for your email below expending time until two weeks after the July 18, 2025, hearing on Defendant's Motion To Dismiss for Mr. Merkel to supplement his Answers, Response, and Objections—provided the Court denies Defendant's Motion To Dismiss.

As I told you today during our phone conference, without waiving his objections, Mr. Merkel will provide you the log in credentials for his Next Door social media account in his First Supplemental Answers, Responses, and Objections to Plaintiff's First Set of Rogs/RFP's, which I plan to serve upon you tomorrow. Mr. Merkel will accordingly supplement his Answers and Responses, if necessary, after the court rulings on July 18.

Mr. Merkel will cooperate with you and your client the City of SV in providing you with whatever information you need to access his Next Door social media account. Mr. Merkel provided his log in credentials and authentication information to City Attorney Kelly Konkright in January before you filed your Complaint, and Attorney Konkright did in fact log into Mr. Merkel's Next Door account and had access all its data. Nevertheless, Mr. Merkel is willing continue to cooperate with the City of

SV to access all the data on his Next Door account. Mr. Merkel's postings on his Next Door social media account are available to any user of the social media platform—including the City of Spokane Valley—and as such have always been available to the City.

However, as I indicated today during our telephonic discovery conference, Mr. Merkel objects to the disclosure of his private electronic communications protected his right to privacy by RCW 42.46.050 and 42.56.230 and the 4th and 14th Amendments to U.S. Constitution, and invasion of private affairs protected by Washington State Constitution Article 1, Section 7. See *T.S. v. Boy Scouts Of America*, 157 Wn.2d 416 (2006).

Furthermore, as I explained to you today during our phone conference, Councilmember Merkel's communications with his political groups regarding his political activities and political dissident beliefs, and the identities of the members of his political groups, are privileged communications protected by his right to privacy in freedom of group and political association and freedom of speech under the First Amendment to the U.S. Constitution. See *Eugster v. City of Spokane*, 121 Wn. App. 799 (Div. 3 2004), review denied 153 Wn.2d 1012 (2005).

I will file a CR 26(c) Motion For Protective Order for protect Mr. Merkel from disclosing to the City of SV his private personal communications and his political communications, or in the alternative, a protective order prevent the City from disclosing in response to a public records request any such materials until such time the Court may conduct an *in camera* inspection to determine what, if any of it, meets the definition of "public records" pursuant to 42.56.010 (3), as interpreted by *Nissen v. Pierce County*, 183 Wn.2d 863 (2015), and further clarified by *West v. Puyallup*, 2 Wn. App.2d 586 (Div. 2 2018).

Patrick J. Kirby



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