

RECEIVED

JUN 08 2018

WASHINGTON STATE
SUPREME COURT

KMS

NO. 95945-5

Franklin County Superior Court Cause No. 18-2-50522-11

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

IN RE THE APPOINTMENT OF A SPECIAL DEPUTY
PROSECUTING ATTORNEY

Shawn P. Sant and Franklin County,

Appellants/Petitioners

RAP 2.3(b) MOTION FOR DISCRETIONARY REVIEW
(Contingent)

SHAWN P. SANT, WSBA No. 35535
Franklin County Prosecuting Attorney

PAMELA B. LOGINSKY, WSBA No. 18096
Special Deputy Prosecuting Attorney
206 10th Ave. SE
Olympia, WA 98501
Phone: (360) 753-2175
E-mail: pamloginsky@waprosecutors.org

**APPENDICES LOCATED IN
ONBASE ONLY**

FILED AS
ATTACHMENT TO EMAIL

TABLE OF CONTENTS

I. IDENTITY OF MOVING PARTIES 1

II. STATEMENT OF RELIEF SOUGHT 1

III. ISSUES PRESENTED FOR REVIEW 1

IV. STATEMENT OF THE CASE 3

V. GROUNDS FOR RELIEF AND ARGUMENT 8

 A. The judges’s entry of the Order of Appointment violated
 Due Process and Code of Judicial Conduct Rule 2.11(A)
 9

 B. An Independent Prosecuting Attorney and Public Funds to
 Pay Such an Attorney are Only Authorized When the
 Prosecuting Attorney is Unable to Perform a Mandatory
 Duty 13

 C. Judges May Expend Public Funds Over the Objection of
 the County’s Legislative Body Only Upon a Showing that
 the Judges Cannot Fulfill Their Duties Without the
 Additional Funds. 17

 D. An Order Appointing a Special or Independent Prosecuting
 Attorney to Prosecute a Law Suit at Public Expense May
 Only Be Entered in a Public Hearing. 19

VI. CONCLUSION 20

Order of Appointment entered in In re the Appointment of a Special
Deputy Prosecuting Attorney, Franklin County Superior Court
Cause No. 18-2-50522-11 (May 22, 2018). Appendix A

Transcripts of Franklin County Board of County Commissioners’
Public Hearings Appendix B

Franklin County Superior Court Local General Rule 3 Appendix C

Declaration of Shawn P. Sant Appendix D

Declarations of Ruby Ochoa, Connie Rhoads, Diana Vera,
Jill Gray, Joyce Ritter, Kay Morin, Maricela Elizondo,
Melyssa Leavitt, Michael Killian, Nicole Cruz, Sara Gore,
Sherise Roderick, Gail Johnston, and Amy Finke Appendix E

Notice of Appeal/notice of Discretionary Review to the Washington
Supreme Court Appendix F

TABLE OF AUTHORITIES

Cases

Ashley v. Superior Court, 82 Wn.2d 188, 509 P.2d 751 (1973), *modified*, 83 Wn.2d 630, 521 P.2d 711 (1974) 8

Berry v. Berry, 765 So.2d 855 (Fla. Dist. Ct. App. 2000) 11

Caperton v. A.T. Massey Coal Co., 556 U.S. 868, 129 S. Ct. 2252, 173 L. Ed. 2d 1208 (2009) 10

Commonwealth Coatings Corp. v. Cont'l Cas. Co., 393 U.S. 145, 89 S. Ct. 337, 21 L. Ed. 2d 301 (1968) 10

Dreiling v. Jain, 151 Wn.2d 900, 93 P.3d 861 (2004) 19

Fisher v. Clem, 25 Wn. App. 303, 607 P.2d 326 (1980), *overruled on other grounds by Brouillet v. Cowles Publishing Co.*, 114 Wn.2d 788, 791 P.2d 526 (1990) 14, 15

Grant County Prosecuting Attorney v. Jasman, 183 Wn.2d 633, 354 P.3d 846 (2015) 14

Hoppe v. King County, 95 Wn.2d 340, 622 P.2d 845 (1980) 14

Hundtofte v. Encarnación, 169 Wn. App. 498, 289 P.3d 513 (2012), *aff'd*, 181 Wn.2d 1, 330 P.3d 168 (2014) 19

In re Howes, 880 N.W.2d 184 (Iowa 2016) 11

In re Murchison, 349 U.S. 133, 75 S. Ct. 623, 99 L. Ed. 2d 942 (1955) 9

In re Salary of Juvenile Director, 87 Wn.2d 232, 552 P.2d 163 (1976) 9, 18

<i>Moore v. Snohomish County</i> , 112 Wn.2d 915, 774 P.2d 1218 (1989)	17
<i>Osborn v. Grant County</i> , 130 Wn.2d 615, 926 P.2d 911 (1996)	14-16
<i>Potashnick v. Port City Construction Co.</i> , 609 F.2d 1101 (5th Cir. 1980)	11
<i>State ex rel Banks v. Drummond</i> , 187 Wn.2d 157, 385 P.3d 769 (2016)	1
<i>State v. Heaton</i> , 21 Wash. 59, 56 P. 843 (1899)	13
<i>State v. Romano</i> , 34 Wn. App. 567, 662 P.2d 406 (1983)	10
<i>State v. Stenger</i> , 111 Wn.2d 516, 760 P.2d 357 (1988)	14
<i>State v. Toliias</i> , 84 Wn. App. 696, 929 P.2d 1178 (1997), <i>rev'd on other grounds</i> , 135 Wn.2d 133, 954 P.2d 907 (1998)	14
<i>Tumey v. Ohio</i> , 273 U.S. 510, 47 S. Ct. 437, 71 L. Ed. 749 (1926)	10
<i>Westerman v. Carey</i> , 125 Wn.2d 277, 892 P.2d 1067 (1994)	14
<i>Withrow v. Larkin</i> , 421 U.S. 35, 47, 95 S. Ct. 1456, 43 L. Ed. 2d 712 (1975)	9

Constitutions

Fourteenth Amendment 3
Washington Constitution article I, section 10 3, 19
Washington Constitution article I, section 3 3
Washington Constitution article VIII, section 4 8, 17
Washington Constitution article XI, section 14 8, 17
Washington Constitution article XI, section 4 13
Washington Constitution article XI, section 5 2, 13

Statutes

Chapter 36.40 RCW 8
RCW 36.27.020 13, 15
RCW 36.27.020(2)-(4) 13
RCW 36.27.030 2, 7, 13
RCW 36.27.040 2, 4, 13, 15
RCW 36.40.060 19
RCW 36.40.070 19
RCW 36.40.071 19
RCW 36.40.100 8, 20
RCW 36.40.130 16

Court Rules and Regulations

Code of Judicial Conduct Rule 2.11(A)	9
Franklin County Superior Court Local General Rule 3	4
RAP 2.3(b)	9
RAP 2.3(b)(2)	17, 19
RAP 2.3(b)(3)	12, 18, 19
RAP 9.11	3

Other Authorities

American Bar Association Committee on Ethics and Professional Responsibility, Informal Opinion no. 1477 (1981)	11
Comment, <i>No Actual Bias Needed: The Intersection of Due Process and Statutory Recusal</i> , 83 Temp. L. Rev. 225 (2010)	10
State of Washington Ethics Advisory Committee Opinion 89-13	11
State of Washington Ethics Advisory Committee Opinion 95-12	11

I. IDENTITY OF MOVING PARTIES

The Petitioners, Franklin County Prosecuting Attorney Shawn P. Sant and Franklin County, by and through their attorney, Pamela B. Loginsky, Franklin County Special Deputy Prosecuting Attorney, ask this Court for the relief designated in Part II of this motion.

II. STATEMENT OF RELIEF SOUGHT

The State respectfully requests that this Court grant discretionary review of the May 22, 2018, Order of Appointment entered in *In re the Appointment of a Special Deputy Prosecuting Attorney*, Franklin County Superior Court Cause No. 18-2-50522-11. A copy of this order appears in Appendix A.

III. ISSUES PRESENTED FOR REVIEW

This appeal stems from a disagreement between the members of the Franklin County Superior Court and the Franklin County Clerk. As in other cases involving disputes between county elected officials, “distinguishing genuine performance issues from long-standing personality conflicts is challenging.” *State ex rel Banks v. Drummond*, 187 Wn.2d 157, 163, 385 P.3d 769 (2016). Resolving the dispute between the bench and the clerk, however, is not before this Court in the instant case.

This matter deals solely with an order entered by the seven Franklin County Superior Court Judges, without any hearing or notice to affected

entities, that commits public funds to the payment of a private attorney who the judges appointed as a “special deputy (sic)¹ prosecuting attorney” to represent the judges in a lawsuit against the Franklin County Clerk. The only questions presented for review in this case involve the validity of this order. The non-exclusive issues raised at this time² by Prosecutor Sant and Franklin County are:

1. Whether judges may rule upon a request for appointment as a special prosecuting attorney in an action filed by the judges from an attorney who concurrently represents the judges in the filed action.

2. Whether judges may appoint themselves a special prosecuting attorney to represent them in a lawsuit against another elected county official when the prosecuting attorney is not required to maintain such a suit.

3. Whether judges may expend public funds to pay a private attorney to maintain an action against another county official after the county’s legislative body refused to appropriate funds for this purpose, where the judges did not prove by clear, cogent, and convincing evidence that the judges could not fulfill their duties if the lawsuit were not funded.

¹Special deputy prosecuting attorneys may only be appointed by the prosecuting attorney pursuant to RCW 36.27.040. Attorneys appointed by a court pursuant to RCW 36.27.030 are not deputies of the duly elected prosecuting attorney. Traditionally they have been called “special prosecuting attorneys,” though the most accurate title is “independent prosecuting attorney.”

²Prosecutor Sant and Franklin County reserve the right to add additional arguments at the merit stage. Potential additional arguments may include whether the order of appointment violates separation of powers and article XI, section 5 of the Washington Constitution.

4. Whether the entry of an order appointing a special prosecutor without a public hearing and without providing notice and an opportunity to be heard by the county's legislative authority or the prosecuting attorney violated the Fourteenth Amendment and article I, sections 3 and 10 of the Washington Constitution.

IV. STATEMENT OF THE CASE

This is an appeal from the Order of Appointment entered in an action entitled *In re the Appointment of a Special Deputy Prosecuting Attorney*, Franklin County Cause No. 18-2-50522-11. No court filings preceded the entry of the order. The facts set forth below that are not supported by the 3-page order of appointment, are supported by the documents that appear in the appendix to this motion. A contemporaneous RAP 9.11 motion requests that this Court consider this additional evidence when it rules upon Prosecutor Sant and Franklin County's motions and upon the merits of their appeal.

Franklin County was an early adopter of the Odyssey record system. May 8, 2018, BOCC Hearing at 4.³ From the start, the county clerk and the superior court judges cooperated with the transition to Odyssey. As early as 2015, it was anticipated that the court files would be paperless by 2018. May 8, 2018, BOCC Hearing at 10, 16-17. To facilitate this transition, the clerk

³Transcripts of the Franklin County Board of County Commissioner's public hearings related to the Franklin County Superior Court Judges' request for funding may be found in appendix B.

gave the superior court tablets and expressed his willingness to accommodate other requests. May 8, 2018, BOCC Hearing at 7-10. The transition to Odyssey progressed to the point where both the superior court administrator and the clerk "signed off" that the system was fully operational in Franklin County. May 8, 2018, BOCC Hearing at 17-18.

Shortly after the clerk's transition to a paperless file system was fully implemented, members of the Franklin County superior court bench experienced problems. In order to gain time to work out the hiccups, the Franklin County Superior Court adopted Franklin County Local General Rule 3.⁴ The independently elected Franklin County Clerk's budget was not large enough for him to maintain duplicate paper records when such records had not been accessed by anyone for over a year. May 8, 2018, BOCC Hearing at 9-10, 17. The clerk, therefore, indicated an unwillingness to comply with Local General Rule 3. March 27, 2018, BOCC Hearing at 11.

In an effort to break the intra-client dispute, Prosecutor Sant appointed an outside attorney as an RCW 36.27.040 special deputy prosecuting attorney to defend the Franklin County Clerk in threatened legal action. March 27, 2018, BOCC Hearing at 5, 9. A second outside attorney, W. Dale Kamerrer, was also appointed as an RCW 36.27.040 special deputy prosecuting attorney to provide independent legal advice to the Franklin

⁴A copy of Franklin County Superior Court Local General Rule 3 may be found in appendix C.

County Superior Court bench.⁵ March 27, 2018, BOCC Hearing at 9. It was Prosecutor Sant's intent that the special deputy prosecuting attorneys would assist the separately elected officials to reach a negotiated resolution of the dispute. March 27, 2018, BOCC Hearing at 9-10.

Rather than engage in discussions regarding how best to go "paperless" and what steps might be taken in the near term to address the bench's concerns, Mr. Kamerrer initiated a suit against the Franklin County Clerk.⁶ Mr. Kamerrer filed the action without prior permission from Prosecutor Sant. Immediately upon receiving notice of the filing of the suit, Prosecutor Sant directed Mr. Kamerrer to cease further work on the lawsuit⁷ as Prosecutor Sant did not authorize suit to be brought against another county officer, and Prosecutor Sant did not have sufficient funds in his budget to pay the costs of the litigation and the judges' budget did not include an appropriation for the purpose of filing lawsuits against another county official. March 22, 2018, e-mail from Prosecutor Sant to Mr. Kamerrer.⁸ *See*

⁵Copies of Mr. Kamerrer's oath of office and his engagement letter may be found in appendix D.

⁶A copy of Mr. Kamerrer's March 21, 2018, 3:30 p.m. e-mail to Shawn Sant which provided Prosecutor Sant with a copy of the pleadings filed on behalf of the judges appears in appendix D.

⁷A similar directive was issued to the attorney appointed to represent the clerk. *See* March 27, 2018 11:56 a.m. e-mail from Prosecutor Sant to Mr. Kamerrer and March 28, 2018, 11:56 a.m. e-mail from Prosecutor Sant to Mr. Kamerrer. Both e-mails may be found in appendix D.

⁸A copy of this e-mail may be found in appendix D.

also March 27, 2018, BOCC Hearing, at 6, 8.

Mr. Kamerrer, on behalf of the judges, appeared before the Franklin Board of County Commissioners (BOCC) to request funds to pay for the judges' action against the Franklin County Clerk. April 17, BOCC Hearing at 7-43. Prosecutor Sant opposed the request on the grounds that he is not required to initiate suit on behalf of one county officer against another county officer, that if the judges' action is funded the county would be required to expend a similar amount of money to defend the clerk, that mediation is a better option, and that the legal question may be resolved in a cost effective manner by requesting an opinion from the attorney general's office. April 17, 2018, BOCC Hearing at 20-32; May 8, 2018, BOCC Hearing at 21-29.

After hearing from Mr. Kamerrer, Prosecutor Sant, the clerk and others in public meetings, the BOCC declined to appropriate the \$14,000 to \$75,000 needed to litigate the judges' lawsuit in the trial and appellate courts. April 17, 2018, BOCC Hearing at 12-15; May 8, 2018, BOCC Hearing at 5-7, 46-48. The BOCC's final decision on funding the lawsuit was made after the clerk agreed to provide paper files, upon request, to the judges for another 3 to 12 months so that any remaining kinks could be worked out. May 8, 2018, BOCC Hearing at 30-33, 41-46. The BOCC's decision was supported by the judges' stated willingness to resolve any technical issues related to Odyssey and the BOCC's belief that the public would be better served by

expending funds on any necessary technological upgrades than on litigation.
May 1, BOCC Hearing at 4-7.

The Franklin County Superior Court bench disagreed that the clerk's concession, coupled with a request for an attorney general's opinion and a commitment from the BOCC to fund the technology necessary to ease the transition to a fully paperless record system was sufficient. In a May 21, 2018, letter authored by Mr. Kamerrer, the judges informed the BOCC that Prosecutor Sant could not represent the judges in the matter and that the judges would appoint Mr. Kamerrer pursuant to RCW 36.27.030 and would compel compensation to pay Mr. Kamerrer. On May 22, 2018, the BOCC considered Mr. Kamerrer's May 21, 2018, letter and declined to revisit its decision not to issue a supplemental appropriation to fund the judges' lawsuit against the clerk. May 22, 2018, BOCC Hearing at 2-3.

On May 22, 2018, an Order of Appointment entered in *In re the Appointment of a Special Deputy Prosecuting Attorney*, Franklin County Superior Court Cause No. 18-2-50522-11, was filed in the clerk's office. The order was not entered in open court and its entry was not preceded by a hearing at which either Prosecutor Sant or the county legislative authority had an opportunity to be heard.⁹ Prosecutor Sant and Franklin County filed a

⁹Declarations from members of the Franklin County Clerk's Office and the Franklin County Prosecuting Attorney's Office establishing the lack of a public hearing and notice may be found in appendix E.

timely notice of appeal/notice of discretionary review from this order.¹⁰

V. GROUNDS FOR RELIEF AND ARGUMENT

A special prosecuting attorney may be appointed pursuant to RCW 36.27.030 only when the prosecuting attorney refuses to or is otherwise unable to perform a mandatory duty of his or her office. The filing of a lawsuit on behalf of one elected county officer against the county or another elected county officer is not a mandatory duty of the prosecuting attorney.

A court may only expend public funds as authorized by law. Washington Constitution article XI, section 14 (prohibits “using [public funds] for any purpose not authorized by law”); Washington Constitution article VIII, section 4 (prohibits the disbursal of public funds without an appropriation).¹¹ The county’s legislative authority is vested with the responsibility to establish the budgets for the county. *See* Chapter 36.40 RCW. Requests for supplemental appropriations to pay for items outside the regularly appropriate budgets may only be granted by the board of county commissioners (hereinafter “BOCC”). RCW 36.40.100. Where, as here, the BOCC denies a court’s request for supplemental funds, a court may only compel public funds upon clear, cogent and convincing evidence that the

¹⁰A copy of the Notice of Appeal/Notice of Discretionary Review may be found in appendix F.

¹¹This constitutional limitation on expenditure of public funds applies to counties. *Ashley v. Superior Court*, 82 Wn.2d 188, 194, 509 P.2d 751 (1973), *modified*, 83 Wn.2d 630, 521 P.2d 711 (1974).

court cannot fulfill its duties or efficiently administer justice without such funds. See *In re Salary of Juvenile Director*, 87 Wn.2d 232, 552 P.2d 163 (1976).

A public hearing before disinterested judges is required before an independent or special prosecuting attorney may be appointed. A public hearing before disinterested judges is required before public funds may be expended over the objection of the BOCC. A public hearing at which both the prosecuting attorney and the BOCC may be heard is critical to maintain public confidence in the courts.

RAP 2.3(b) provides that discretionary review is appropriate when the superior court has committed probable error and the decision of the superior court substantially alters the status quo or substantially limits the freedom of a party to act, or when the superior court departs significantly from the usual course of judicial proceedings. The Order of Appointment in the instant case satisfies these requirements.

A. The judges's entry of the Order of Appointment violated Due Process and Code of Judicial Conduct Rule 2.11(A).

“A fair trial in a fair tribunal is a basic requirement of due process.” *In re Murchison*, 349 U.S. 133, 136, 75 S. Ct. 623, 99 L. Ed. 2d 942 (1955). “Not only is a biased decisionmaker constitutionally unacceptable but our system of law has always endeavored to prevent even the probability of unfairness.” *Withrow v. Larkin*, 421 U.S. 35, 47, 95 S. Ct. 1456, 43 L. Ed.

2d 712 (1975). Even an appearance of impartiality may violate a litigant's right to due process. *See State v. Romano*, 34 Wn. App. 567, 662 P.2d 406 (1983); *see also Commonwealth Coatings Corp. v. Cont'l Cas. Co.*, 393 U.S. 145, 150, 89 S. Ct. 337, 21 L. Ed. 2d 301 (1968) ("any tribunal permitted by law to try cases and controversies not only must be unbiased but also must avoid even the appearance of bias.").

Due process prohibits any judge from acting in a case in which the judge has a personal interest. *See Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 876, 129 S. Ct. 2252, 173 L. Ed. 2d 1208 (2009) (the Due Process Clause rule announced in *Tumery* reflected the common law maxim that "[n]o man is allowed to be a judge in his own cause; because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity." The Federalist No. 10, p 59 (J. Cooke ed. 1961) (J. Madison)); *Tumey v. Ohio*, 273 U.S. 510, 47 S. Ct. 437, 71 L. Ed. 749 (1926) (the Due Process Clause of the Fourteenth Amendment incorporated the common law rule that bars a judge from presiding over a case in which he has a personal interest). *See also* Comment, *No Actual Bias Needed: The Intersection of Due Process and Statutory Recusal*, 83 Temp. L. Rev. 225 (2010).

The Code of Judicial Conduct, ethics opinions and case law, moreover, identify other circumstances that are absolute bars to a judge presiding over a matter. A judge may not rule upon any matter or motion in

which an attorney, who currently represents the judge in any on-going matter, appears. *See, e.g., Potashnick v. Port City Construction Co.*, 609 F.2d 1101, 1111 (5th Cir. 1980) (a judge was required to recuse himself because one of the attorneys in the case represented him and had business dealings with him); *In re Howes*, 880 N.W.2d 184 (Iowa 2016) (public admonishment issued to a judge who failed to disqualify herself from an application for a temporary injunction that was filed by an attorney who had represented the judge in a dissolution action); *Berry v. Berry*, 765 So.2d 855, 858 (Fla. Dist. Ct. App. 2000) (a reasonable person who knows an attorney appearing before a judge currently represents the judge would have a reasonable basis for questioning the judge's impartiality); American Bar Association Committee on Ethics and Professional Responsibility, Informal Opinion no. 1477 (1981) ("when a private lawyer is currently representing a judge, ... the judge should not sit in a case in which a litigant is represented by the lawyer."); State of Washington Ethics Advisory Committee Opinion 95-12 (judicial officer who is being defended by a deputy prosecuting attorney in the U.S. District Court "may not preside over cases in which the deputy prosecuting attorney handling the judicial officer's case participates, during the pendency of the judicial officer's case"); State of Washington Ethics Advisory Committee Opinion 89-13 ("a court commissioner may not hear any matters which are not agreed (whether the same be actively contested or any posture of default)

in which the attorney who represents the commissioner in a lawsuit in the commissioner's personal capacity is involved or the opposing counsel in the lawsuit is involved”).

Here, the Order of Appointment was signed by seven superior court judges, who were disqualified from acting upon the request for the appointment of a special deputy prosecuting attorney, as the request for appointment came from the lawyer who is currently representing the judges. The judges are further disqualified from signing the Order of Appointment as the order is intended to impact the progress of an action to which the judges are parties. *See* Order of Appointment, FOF 1 (appointment relates to the action entitled *The Judges of the Benton and Franklin County Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-Brown, Judge Bruce Spanner and Judge Sam Swanberg, Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court, Defendants*, Franklin County Superior Court No. 18-2-50285-11); FOF 3 (“W. Dale Kamerrer . . . has been performing the duties of the attorney for the plaintiffs in said action”).

The judges’ entry of an order related to a matter to which they are parties is such a departure “from the accepted and usual course of judicial proceedings . . . as to call for review by the appellate court.” RAP 2.3(b)(3).

B. An Independent Prosecuting Attorney and Public Funds to Pay Such an Attorney are Only Authorized When the Prosecuting Attorney is Unable to Perform a Mandatory Duty.

A prosecuting attorney is an elected officer, whose duties are established by the legislature. *See generally* Const. art. XI, §§ 4, 5. In RCW 36.27.020, the duties of the prosecuting attorney are set forth. Those duties include (1) providing legal advice to all county officers; (2) “appear[ing] for and represent[ing] the . . . county . . . in all . . . civil proceedings in which the . . . county . . . may be a party”; and (3) “defend[ing] all suits brought against the state or the county.” RCW 36.27.020(2)-(4) (emphasis added).

A prosecuting attorney may personally perform all of the duties contained in RCW 36.27.020, or may appoint one or more deputies to exercise the prosecuting attorney’s authority. RCW 36.27.040. So long as the prosecuting attorney or one of his or her deputies or special deputies is available to perform the duties specified in RCW 36.27.020, a court may not appoint some other person to perform the prosecutor’s duties. *See generally State v. Heaton*, 21 Wash. 59, 61-62, 56 P. 843 (1899) (the court may only appoint a special prosecutor as authorized by statute).

RCW 36.27.030 identifies the conditions that must exist before a court may appoint a special prosecuting attorney:

When from illness or other cause^[12] the prosecuting attorney is temporarily unable to perform his or her duties, the court or judge may appoint some qualified person to discharge the duties of such officer in court until the disability is removed.

Here, the Franklin County Superior Court judges appointed W. Dale Kramerrer to represent them in a lawsuit they filed against the Franklin County Clerk. This appointment was improper as a

court can appoint a special prosecutor to represent a party only when two conditions are met. First, the prosecutor must have the authority and the duty to represent that party in the given matter. Second, some disability must prevent the prosecutor from fulfilling the duty. If the prosecutor has no duty or authority to represent a party, the trial court cannot appoint special counsel.

Osborn v. Grant County, 130 Wn.2d 615, 624-25, 926 P.2d 911 (1996).

Accord Grant County Prosecuting Attorney v. Jasman, 183 Wn.2d 633, 647, 354 P.3d 846 (2015).

A county official, including a judge, may not compel the prosecuting attorney to bring a lawsuit against the county or another county official. In *Fisher v. Clem*, 25 Wn. App. 303, 607 P.2d 326 (1980), *overruled on other grounds by Brouillet v. Cowles Publishing Co.*, 114 Wn.2d 788, 793-94, 791

¹²Case law generally equates "other cause" to a conflict of interest. See *Westerman v. Carey*, 125 Wn.2d 277, 892 P.2d 1067 (1994) (prosecutor disagreed with his client's position in a case in which the client was sued); *State v. Stenger*, 111 Wn.2d 516, 760 P.2d 357 (1988) (defendant was prosecutor's former client); *State v. Tolia*, 84 Wn. App. 696, 929 P.2d 1178 (1997), *rev'd on other grounds*, 135 Wn.2d 133, 954 P.2d 907 (1998) (prosecutor had mediated dispute that gave rise to criminal charges). A disagreement between a prosecuting attorney and a county officer over the interpretation of a statute does not establish a conflict of interest that allows the county officer to obtain a special prosecutor at public expense. See *Hoppe v. King County*, 95 Wn.2d 340, 622 P.2d 845 (1980).

P.2d 526 (1990), the court affirmed the denial of a district court judge's request that the prosecuting attorney bring a mandamus action or appoint a special prosecutor to bring a mandamus action to compel the county commissioners to provide funds for the probation department of the district court. In doing so, the court held that "the prosecutor's maintenance of any civil proceedings under RCW 36.27.020 is discretionary." *Fisher*, 25 Wn. App. at 307. *Accord Hoppe v. King County*, 95 Wn.2d 332, 339-40, 622 P.2d 845 (1980) ("nothing in the duties of the prosecuting attorney (RCW 36.27.020) requires that officer to bring an action simply because a request is made by another county officer or to provide legal representation").

This same principle underscores this Court's reversal of a superior court's \$19,000 award of attorney fees to an attorney the superior court appointed as a special prosecutor to represent the clerk in her lawsuit against the county. *See Osborn v. Grant County, supra*. While this Court acknowledged that the Grant County Prosecuting Attorney was unable to provide legal advice to the clerk due to a conflict of interest, the appointment of a special prosecutor is only proper with respect to the mandatory duty of providing legal advice to the clerk. An appointment may not extend to the filing of an action on behalf of the clerk. *Osborn*, 130 Wn.2d at 629.

In the instant case Prosecutor Sant discharged his mandatory duty of providing legal advice to the superior court bench by appointing an RCW

36.27.040 conflict-free special deputy prosecuting attorney for that purpose. While Prosecutor Sant had a duty to refrain from interfering in the legal advice such counsel provided, Prosecutor Sant retained control to determine whether any non-mandatory services would be provided. Prosecutor Sant carefully considered the judges' request that a mandamus action be maintained against the Franklin County Clerk. He declined the request to maintain the suit for budgetary reasons¹³ and because the cost of the law suit was unreasonable where the clerk was amenable to fixing any glitches in the paperless record system. *Cf. Osborn*, 130 Wn.2d at 629 (rejecting claimed legal fees of \$19,000 where the complained of action by the Board "caused no serious disruption in the operation of the county clerk's office"). Prosecutor Sant determined that submitting the legal question posed in the judges' mandamus action to the attorney general's office for an opinion was a cost-effective means of resolving the issue. While the judges are free to disagree with Prosecutor Sant's conclusion, they must do so at their own expense. *Hoppe*, 95 Wn.2d at 340 ("Hoppe was entitled to second-guess the judgment of the prosecuting attorney. He was not entitled to do so with a special prosecutor at taxpayers' expense.").

¹³The prosecuting attorney, like all county officers, faces consequences if he exceeds his budget. *See* RCW 36.40.130 (a county officer is personally responsible for expenditures made or liabilities incurred in excess of the budget).

The Order of Appointment violates all of the above precedents. The maintenance of the mandamus action at public expense prevents the issuance of an attorney general's opinion. *See, e.g.*, May 8, 2018, BOCC Hearing, at 37. The maintenance of the mandamus action at public expense forces Franklin County to divert funds allocated to address technologic issues with going paperless to funding the clerk's defense. The order substantially alters the status quo and substantially limits the freedom of Prosecutor Sant and the BOCC to act in the best interests of the taxpayers of Franklin County. Review should be granted pursuant to RAP 2.3(b)(2).

C. Judges May Expend Public Funds Over the Objection of the County's Legislative Body Only Upon a Showing that the Judges Cannot Fulfill Their Duties Without the Additional Funds.

As a general rule, public funds may not be expended except as authorized by law. *Moore v. Snohomish County*, 112 Wn.2d 915, 919-920, 774 P.2d 1218 (1989) (citing Wash. Const. art. VIII, sec. 4¹⁴). A limited exception to this rule is that a court has the inherent power to dictate its own

¹⁴Const. art. VIII, sec. 4 provides:

No moneys shall ever be paid out of the treasury of this state, or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law. . . .

The expenditure of public funds without the necessary appropriation is a felony. *See* Const. art. XI, sec. 14 ("using [public funds] for any purpose not authorized by law, by any officer having the possession or control thereof, shall be a felony, and shall be prosecuted and punished as prescribed by law.").

survival when insufficient funds are provided by other branches. *Salary of Juvenile Director*, 87 Wn.2d at 245. The exercise of this inherent power by a superior court requires a hearing before a disinterested judge from another county, *id.* at 233, and clear, cogent, and convincing proof by the superior court that it cannot fulfill its duties without the increased funding. *Id.*, at 252.

In the instant case, the Franklin County Superior Court judges, exercising self-help, entered an order compelling the payment of public funds for counsel to allow them to maintain their lawsuit against the clerk. The judges did not provide the BOCC or Prosecutor Sant with an opportunity to show cause before a disinterested judge from another county why public funds should not be compelled for this purpose. In doing so, they departed “from the accepted and usual course of judicial proceedings . . . as to call for review by the appellate court.” RAP 2.3(b)(3).

There is also a fundamental failure of proof by the Franklin County Superior Court. No evidence was submitted by the judges to the BOCC to support by a preponderance of the evidence – let alone by a clear, cogent, and convincing showing – that the clerk’s current methods of maintaining the records of the superior court is so inadequate that the court could not fulfill its duties. Lacking such proof, there is no basis for the exercise of inherent power to fund the lawsuit. *Salary of the Juvenile Director*, 87 Wn.2d at 252. The judges’ attempt to do so imposed an improper check on the function of

the legislative branch of government which significantly limits the BOCC's ability to act. Review is, therefore, proper pursuant to RAP 2.3(b)(2).

D. An Order Appointing a Special or Independent Prosecuting Attorney to Prosecute a Law Suit at Public Expense May Only Be Entered in a Public Hearing.

The Order of Appointment was entered in chambers, with no court hearing and no notice to the BOCC, Prosecutor Sant or to the general public. This constitutes such an egregious departure from the usual course of judicial proceedings that review by this Court is required. *See* RAP 2.3(b)(3).

Article I, section 10 of the Washington Constitution states that “[j]ustice in all cases shall be administered openly, and without unnecessary delay.” The openness of our courts “is of utmost public importance” and helps “foster the public’s understanding and trust in our judicial system.” *Dreiling v. Jain*, 151 Wn.2d 900, 903, 93 P.3d 861 (2004). The presumption of open court proceedings may only be overcome for compelling reasons. When legislative policy is that a particular type of hearing will be conducted in the open, the proponent of closure is doomed to failure. *See Hundtofte v. Encarnación*, 169 Wn. App. 498, 517-19, 289 P.3d 513 (2012), *aff’d*, 181 Wn.2d 1, 330 P.3d 168 (2014).

County budgets are adopted after public hearings. *See, e.g.*, RCW 36.40.060, .070, .071. Supplemental appropriations require a public hearing which may only take place after publication of a notice for two consecutive

weeks in the official newspaper of the county of the time and date of the meeting at which the supplemental appropriations resolution will be adopted and the amount of the appropriation, RCW 36.40.100. The judges' failure to make their case in a public hearing before a disinterested judge as to why the BOCC should be required to fund the action against the clerk over the objections of the BOCC was improper.

VI. CONCLUSION

Prosecutor Sant and Franklin County respectfully request that this Court grant discretionary review to correct the egregious errors committed by the entry of the Order of Appointment without a public hearing by judges with a personal interest in the proceedings.

Respectfully submitted this 6th day of June, 2018.

SHAWN P. SANT
Prosecuting Attorney



PAMELA B. LOGINSKY, WSBA No. 18096
Special Deputy Prosecuting Attorney

APPENDIX A

**Order of Appointment entered in In re the Appointment of a Special
Deputy Prosecuting Attorney, Franklin County Superior Court Cause No.
18-2-50522-11 (May 22, 2018)**

FILED
FRANKLIN CO CLERK
2018 MAY 22 PM 3:32

MICHAEL J. KILLIAN
BY DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A
SPECIAL DEPUTY PROSECUTING
ATTORNEY

ORDER OF APPOINTMENT

This matter came before the above-entitled Court for consideration of the appointment of a Special Deputy Prosecuting Attorney for Franklin County, pursuant to RCW 36.27.030. The Court makes the following Findings of Fact related thereto:

1. In relation to the action entitled *The Judges of the Benton and Franklin Counties Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-brown, Judge Bruce Spanner and Judge Sam Swanberg, Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court, Defendants*, Franklin County Superior Court No. 18-2-50285-11, as contemplated by RCW 36.27.030, the Prosecuting Attorney of Franklin County is unable to discharge the duties of his office due to a disability arising from the requirements and limitations of Rules of Professional Conduct, Rule 1.7; and

2. The Attorney General of the State of Washington has declined to represent the plaintiffs in the action referred to above; and

3. W. Dale Kamerrer, WSBA #8218, is a duly admitted and practicing attorney-at-law and resident of the State of Washington, and is qualified to discharge the duties of the Prosecuting Attorney of Franklin County in relation to the above-referenced action, and has been performing the duties of the attorney for the plaintiffs in said action pursuant to

1 appointment by the Franklin County Prosecuting Attorney to serve as a Special Deputy
2 Prosecutor; and

3 4. Mr. Kamerrer shall receive such reasonable compensation for the professional
4 services he renders to the plaintiffs as may be fixed and ordered by the court to be paid by
5 Franklin County.

6 Based upon the foregoing Findings of Fact, it is now hereby Ordered:

7 1. W. Dale Kamerrer is hereby Appointed as a Special Deputy Prosecuting Attorney
8 to represent the plaintiffs in the action identified above.

9 2. Payment of compensation for the professional services rendered shall be subject
10 to further order of the court.

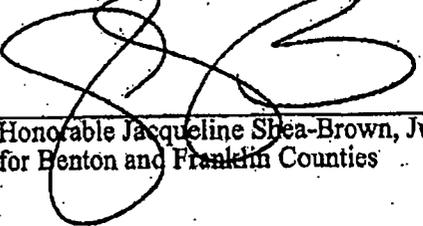
11 Dated this 21st day of May 2018.

12 
13 _____
14 Honorable Alex Ekstrom, Administrative Presiding Judge,
Judge of the Superior Court for Benton and Franklin Counties

15 
16 _____
17 Honorable Bruce Spanner, Assistant Administrative Presiding Judge,
Judge of the Superior Court for Benton and Franklin Counties

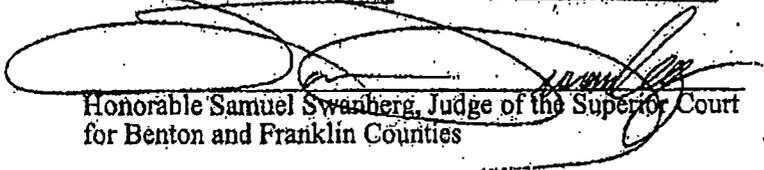
18 
19 _____
20 Honorable Joseph Burrowes, Judge of the Superior Court
for Benton and Franklin Counties

21 
22 _____
23 Honorable Cameron Mitchell, Judge of the Superior Court
for Benton and Franklin Counties

24 
25 _____
26 Honorable Jacqueline Shea-Brown, Judge of the Superior Court
for Benton and Franklin Counties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Carrie Runge
Honorable Carrie Runge, Judge of the Superior Court
for Benton and Franklin Counties


Honorable Samuel Swenberg, Judge of the Superior Court
for Benton and Franklin Counties

APPENDIX B

Transcripts of Franklin County Board of County Commissioners' Public Hearings

March 27, 2018, Board of Commissioner's Meeting

April 17, 2018, Board of Commissioner's Meeting

May 1, 2018, Board of Commissioner's Meeting

May 8, 2018, Board of Commissioner's Meeting

May 22, 2018, Board of Commissioner's Meeting

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BOARD OF COMMISSIONER'S MEETING

March 27, 2018

In Re The Appointment of a Special Deputy Prosecuting
Attorney

18-2-50522-11

Present at Meeting

Commissioner Brad Peck

Prosecuting Attorney Shawn Sant

Judge Bruce Spanner

1 March 27, 2018

2
3 COMMISSIONER BRAD PECK: Okay we have completed our
4 executive session as announced. And, uh, took a couple
5 minutes there to get the door open. And we'll - we'll delay
6 for a minute as parties come back int- in the room. Okay so,
7 um, we have completed our published agenda. But we always
8 leave time if there are parties that want to meet or discuss
9 any issues with the board. We did complete our executive
10 session discussions with the prosecuting attorney. And before
11 we adjourn, I see that a couple of superior court judges have
12 come back in and gentleman, we're welcome to entertain any
13 discussions or topics that you wanna discuss with the board.
14 But there's no action anticipated out of the executive
15 session.

16 JUDGE BRUCE SPANNER: Well I - I think our - our
17 questions are f- more for Mr. Sant than the board.

18 COMMISSIONER BRAD PECK: Well it is a public meeting and
19 if he is willing to have that conversation, there's no
20 objection from the board.

21 PROSECUTING ATTORNEY SHAWN SANT: I...

22 COMMISSIONER BRAD PECK: But he'd not a member of the
23 board, so he's - he's...

24 PROSECUTING ATTORNEY SHAWN SANT: Sure...
25

1 COMMISSIONER BRAD PECK: ...really not obliged either,
2 so...

3 PROSECUTING ATTORNEY SHAWN SANT: And, Your Honor, I'd -
4 I'd have no objection with that either, except for the
5 parties are represented. And so I'd like to communicate, uh,
6 information that I can convey with the parties through their
7 counsel at this point, so.

8 COMMISSIONER BRAD PECK: Okay well I...

9 JUDGE BRUCE SPANNER: Well I - I guess we need to know.
10 And you told our attorney to s- to stop doing any work.

11 PROSECUTING ATTORNEY SHAWN SANT: Uh...

12 JUDGE BRUCE SPANNER: And we need to know...

13 COMMISSIONER BRAD PECK: Eh...

14 JUDGE BRUCE SPANNER ...if you've given the same
15 instructions to Mr. (Timeon)'s attorney.

16 PROSECUTING ATTORNEY SHAWN SANT: I'm g- I can discuss
17 that with your counsel.

18 COMMISSIONER BRAD PECK: Yeah and - and I'm not in a
19 position to compel...

20 JUDGE BRUCE SPANNER: No.

21 COMMISSIONER BRAD PECK: ...Mr. Sant or anyone else to -
22 to participate. My authority is obviously is with the board.

23 JUDGE BRUCE SPANNER: Uh-huh.

24 COMMISSIONER BRAD PECK: And, um, and so I understand the
25 desire for conversation, but i- in this case, I've - I've got

1 to defer the parties.

2 JUDGE BRUCE SPANNER: Oh - okay, so with a - we're high
3 centered. How - how is that log jam gonna be broken?

4 PROSECUTING ATTORNEY SHAWN SANT: I'll...

5 JUDGE BRUCE SPANNER: We...

6 PROSECUTING ATTORNEY SHAWN SANT: ...di- I'll discuss
7 with (Kimmer) today, immediately following this meeting.

8 JUDGE BRUCE SPANNER: Oh - okay...

9 PROSECUTING ATTORNEY SHAWN SANT: ...a direction that
10 we're given.

11 JUDGE BRUCE SPANNER: Okay. Um, uh, have you made the
12 request for an Attorney General as you indicated in your...

13 PROSECUTING ATTORNEY SHAWN SANT: I have.

14 JUDGE BRUCE SPANNER: ...email?

15 PROSECUTING ATTORNEY SHAWN SANT: Yes, I have.

16 JUDGE BRUCE SPANNER: And what's the response to that?

17 PROSECUTING ATTORNEY SHAWN SANT: I haven't received that
18 confirmation. They're reviewing that and discussing that. And
19 that's part of the issue that I need to brief Mr. (Kimmer)
20 on, as well.

21 JUDGE BRUCE SPANNER: Okay...

22 PROSECUTING ATTORNEY SHAWN SANT: So I - I've - I've made
23 that request. I - I've indicated previously, uh, we've
24 indicated publicly that we've requested the Attorney
25 General's office to intervene. They declined initially. And

1 now that there's actually a complaint filed, I've asked the
2 State Attorney General's Office with that basis to step in
3 and represent in a conflict case.

4 JUDGE BRUCE SPANNER: Okay. The - the last thing is when
5 we recuse from a case, because have a conflict of interest or
6 whatever, ethically we're required to stay completely hands
7 off of the case and not influence at all. It looks like
8 you're wanting to do it both ways, where you don't
9 participate directly, but you're still trying to steer the
10 ship. I mean are you - are you...

11 PROSECUTING ATTORNEY SHAWN SANT: Sure...

12 JUDGE BRUCE SPANNER: ...in or are you out?

13 PROSECUTING ATTORNEY SHAWN SANT: Well certainly we could
14 address that. So the issue is when I appointed Mr. (Kimmer)
15 to represent on a conflict basis, that was because there was
16 being action taken against a - a member of Franklin County.
17 My duty as Franklin County Prosecutor is to defend Franklin
18 County from suits, not to initiate litigation. Uh, Mr.
19 (Kimmer)'s appointment was set up to design to try to
20 mediate, uh, the matter and try to resolve the dispute, not
21 to actually file a complaint against Franklin County.

22 JUDGE BRUCE SPANNER: Ca- ca- is there a written letter
23 of engagement...

24 ((Crosstalk))

25 PROSECUTING ATTORNEY SHAWN SANT: There is a written

1 letter of engagement.

2 JUDGE BRUCE SPANNER: Uh, okay...

3 PROSECUTING ATTORNEY SHAWN SANT: And so...

4 JUDGE BRUCE SPANNER ...well, I guess we need to see
5 that.

6 PROSECUTING ATTORNEY SHAWN SANT: Okay. Well...

7 JUDGE BRUCE SPANNER: I don't...

8 PROSECUTING ATTORNEY SHAWN SANT: ...you can talk to your
9 attorney about that, as well.

10 JUDGE BRUCE SPANNER: Sure.

11 PROSECUTING ATTORNEY SHAWN SANT: Um, but the - the issue
12 is now is what's being asked of my office is to fund
13 litigation and fund defending. And I don't have the funding
14 in my budget for that. So I'm gonna have to come back to the
15 board and request that funding, as well.

16 JUDGE BRUCE SPANNER: And...

17 PROSECUTING ATTORNEY SHAWN SANT: I'm at - I'm...

18 JUDGE BRUCE SPANNER: Why aren't we doin' that today?

19 PROSECUTING ATTORNEY SHAWN SANT: I'm sorry?

20 JUDGE BRUCE SPANNER: Why aren't you doing that today?

21 PROSECUTING ATTORNEY SHAWN SANT: Because I'm still
22 awaiting for the Attorney General's Office to weigh in and
23 decide. Because if they're gonna take this, I - I believe
24 this matter is much - has much greater consequence than
25 simply Franklin County...

1 JUDGE BRUCE SPANNER: And who told you that?

2 PROSECUTING ATTORNEY SHAWN SANT: I'm sorry?

3 JUDGE BRUCE SPANNER: Who told you that?

4 PROSECUTING ATTORNEY SHAWN SANT: No, I - I've determined
5 that. Looking - looking at this case, this has much greater
6 in- influence or impact where the Attorney General's Office
7 should re- should w- really be weighing in. Because any
8 decision from this is gonna probably carry out throughout the
9 other counties of the state. And the other that we have is
10 because we have the judges that are a bi-county, uh, judicial
11 district. We have to get - probably weigh-in if this is going
12 to increase, uh, the cost for Franklin County from members
13 that are both Benton and Franklin funded, as well as state
14 funded, uh, officers. We're gonna need to request or at
15 least, uh, I'd like to pitch to - to Mr. (Miller)'s office to
16 see if they agree with taking this - these actions...

17 JUDGE BRUCE SPANNER: We - we don't have a beef with the
18 Benton...

19 PROSECUTING ATTORNEY SHAWN SANT: So...

20 JUDGE BRUCE SPANNER: ...County clerk.

21 PROSECUTING ATTORNEY SHAWN SANT: I...

22 JUDGE BRUCE SPANNER: It's - it's only with the Clerk
23 that's here. And it has nothing...

24 PROSECUTING ATTORNEY SHAWN SANT: I understand that...

25 JUDGE BRUCE SPANNER: And it has nothing to do with

1 Benton County.

2 PROSECUTING ATTORNEY SHAWN SANT: Uh, I understand that.
3 But I'm being asked to fund litigation I guess o- on both
4 sides. And that's - that's the question. And I'm not in a
5 position to do that until I have an answer from the Attorney
6 General's Office before I start depleting a bunch of funds
7 out of my budget. I know your budget probably doesn't have a
8 - a line for this kind of litigation. Uh, I don't believe the
9 Clerk's Office had a budget line for this kind of litigation.
10 And so I wanna find out if the Attorney General's Office is
11 gonna represent its state officers in this matter. I'm not
12 disagreeing necessarily with the, uh, attempts to try to
13 resolve this dispute. I don't like the idea that it's a
14 complaint filed and I think Mr. (Kimmer) took that
15 information and filed an amendment complaint addressing part
16 of that. But the - the - the - the underlying issue is
17 Franklin County is now being asked to fund litigation against
18 itself.

19 JUDGE BRUCE SPANNER: Well, um, where did you get the
20 idea that there was gonna be a mediation? We - we're trying
21 to compel Mr. (Killian) to comply with the law, to do his
22 duty...

23 PROSECUTING ATTORNEY SHAWN SANT: Well and that's...

24 JUDGE BRUCE SPANNER: ...and to refrain from violating
25 his oath...

1 PROSECUTING ATTORNEY SHAWN SANT: It...

2 JUDGE BRUCE SPANNER: Where's the mediation come from?

3 PROSECUTING ATTORNEY SHAWN SANT: And that's the - and
4 that's the legitimate question I think for, uh, for the
5 parties.

6 JUDGE BRUCE SPANNER: Uh, no where did you get the idea
7 that there was going to be an effort to mediate?

8 PROSECUTING ATTORNEY SHAWN SANT: Well....

9 JUDGE BRUCE SPANNER: When - when you hired - when you
10 appointed (Kimmer).

11 PROSECUTING ATTORNEY SHAWN SANT: When I appointed
12 (Kimmer), the idea was so that he would have - be
13 representing the judges because I offered that as a courtesy
14 to the judges when I appointed a conflict counsel to the
15 Clerk because there was - there was a threatened legal action
16 against the Clerk or a county officer at that time.

17 JUDGE BRUCE SPANNER: So who - who gave you the idea that
18 there was an effort - that was someone was planning on
19 mediating something? That's my question.

20 PROSECUTING ATTORNEY SHAWN SANT: I guess that's a 1-
21 that's a legitimate question I have.

22 JUDGE BRUCE SPANNER: No I - I - will - will you please
23 answer my question, Mr. Sant? Who suggested to you that we
24 were gonna resolve this by mediation?

25 PROSECUTING ATTORNEY SHAWN SANT: Well that would be

1 certainly my direction that I would wanna see h- happen be-
2 before I fund or seek to fund a litigation out of - out of my
3 office. You understand, I am obligated to defend a member of
4 Franklin County if they're - they're sued or if a legal claim
5 is made against them? I am not obligated statutorily or
6 otherwise to litigation against that party.

7 JUDGE BRUCE SPANNER: I...

8 PROSECUTING ATTORNEY SHAWN SANT: And so I...

9 JUDGE BRUCE SPANNER: I've never looked at your enabling
10 statute. I - I can't comment on that. You're - you're still
11 avoiding the question. And then I guess you're not gonna
12 answer it.

13 PROSECUTING ATTORNEY SHAWN SANT: Well the question is is
14 that I am not going to fund suing Franklin County at this
15 point in time. I've - I've told you I reached out to the
16 Attorney General's Office to see if they could take this on,
17 which I think they should because typically the Attorney
18 General's Office represents superior court judges when
19 there's a legitimate dispute against a - a county. And in
20 this particular county, we're made up of a judicial district
21 that, uh, comprises of multiple counties. And that's one of
22 the criteria that they look at for determining is this more
23 of the actions of a - a county officer or a state officer.
24 And because there - I think you'd agree - there's a
25 legitimate conflict when we have two elected officials or two

1 elected groups and they're obviously not seeing eye-to-eye,
2 it would be in the best interest, I think, to - to try to
3 mediate or try to remedy that short of litigation. When we go
4 to litigation, I think you'd appreciate that that - jumps the
5 expense and increases the amount of cost to Franklin County.

6 JUDGE BRUCE SPANNER: Mr. Sant, RCW232050, subsection 3
7 says that the Clerk will file documents as directed by
8 statute or by court by local rule. We passed a local rule
9 telling Mr. (Killian) how to file things.

10 PROSECUTING ATTORNEY SHAWN SANT: Okay...

11 JUDGE BRUCE SPANNER: Where's the - where's the middle
12 ground there? And he's...

13 COMMISSIONER BRAD PECK: So...

14 JUDGE BRUCE SPANNER He, in writing, has refused to
15 comply with - with the law...

16 COMMISSIONER BRAD PECK: So gentlemen, I'm gonna weigh in
17 here. Since, um, we're not in a courtroom. But, this is
18 effectively my courtroom.

19 JUDGE BRUCE SPANNER: And...

20 COMMISSIONER BRAD PECK: And I understand the - the
21 discussion back and forth and the passion. Uh, I'm one of the
22 few people in the room that's not an attorney. But I do know
23 that this is not on our agenda. And so I'm gonna ask you to
24 continue your conversations in a - a, uh, what I think is a
25 more appropriate forum, which is a - a meeting with or

1 without counsel. You're - you're the attorneys. You can sort
2 that out. But, there is no - no action before the board.

3 JUDGE BRUCE SPANNER: Can...

4 COMMISSIONER BRAD PECK: There's been no request for any
5 action. Uh, my sense - and since there's only two of us - and
6 - and I'm not proposing any action. There can't be any board
7 proposed action today. Uh, if there's a - a request of the
8 board that someone wants to make we're, it's certainly
9 timely, we're in open session. But I'm not advocating for
10 that, either. So...

11 JUDGE BRUCE SPANNER: Can I ask just one last question...

12 COMMISSIONER BRAD PECK: Uh...

13 JUDGE BRUCE SPANNER: ...of Mr. Sant?

14 COMMISSIONER BRAD PECK: It's up to Mr. Sant, but...

15 PROSECUTING ATTORNEY SHAWN SANT: Go ahead.

16 COMMISSIONER BRAD PECK: I'm not opposed.

17 JUDGE BRUCE SPANNER: Sure. Uh, we - we can come to the
18 board and ask them for funding. If they funded, would you a -
19 allow the - Mr. (Kimmer) to remain a special deputy of your
20 office?

21 PROSECUTING ATTORNEY SHAWN SANT: I'm not changing spe-
22 uh, special co- uh, special counsel as (Kimmer). I - if the
23 AG's Office is willing to take this, I am gonna agree to
24 having the Attorney General's Office take over at that point.
25 Because that's gonna be cost effective for the county and the

1 parties are being represented.

2 JUDGE BRUCE SPANNER: That would - i- i- the question is
3 if the board funds our attorney and it doesn't come through
4 your budget, would you a- allow our attorney to - to be a
5 special counsel?

6 PROSECUTING ATTORNEY SHAWN SANT: I'd have to - I'd have
7 to look at everything, especially after a consultation with
8 the Attorney General's Office.

9 JUDGE BRUCE SPANNER: All right.

10 COMMISSIONER BRAD PECK: Okay. Well, um, I don't see any
11 other business before the court. Mr. (Johnson), do you have
12 any other matters that we need to discuss today?

13 MAN: No.

14 COMMISSIONER BRAD PECK: Mr. Miller, anything else?

15 MAN: No, just a - maybe just a brief dis- discussion
16 about law library. Uh, our a- administrator and I went up
17 there and looked at the law library. There is from the law
18 library at CBC where the central location is, there is one
19 more description that we could put a computer on there. This
20 might be a good time to ask some judges what they think. But,
21 we could put a computer up there for use for, um, uh, you
22 know, litigation or whatever, when you guys need to go in
23 there. And you - judges have their own, so they really don't
24 need it. But, I think it's more other attorneys.

25 JUDGE BRUCE SPANNER: We're the wrong ones to ask. We

1 don't get any...

2 MAN: Okay.

3 JUDGE BRUCE SPANNER: ...use out of them...

4 MAN: Yeah, I know you got your own - you got your own
5 setup. But I'm wondering how other attorneys, uh, if you knew
6 anything about those guys. I know one or two do go in there
7 once in a while. I don't know how much it's used. We could
8 put a computer - we pay for the computer - law library may be
9 able to help us with that. We could hook that up in the law
10 library and have that access to the public and mostly
11 clients.

12 JUDGE BRUCE SPANNER: I think your best person to ask
13 that question of is Diana Ruff...

14 MAN: Okay.

15 JUDGE BRUCE SPANNER: ...the President of the - our local
16 Benton-Franklin Bar Association. It meet monthly. She can
17 graze that from the floor and...

18 MAN: Okay.

19 JUDGE BRUCE SPANNER: ...she's in the...

20 MAN: That's a good start.

21 JUDGE BRUCE SPANNER: She's in the Benton County
22 Prosecutor's Office.

23 MAN: Yep, that's a good start. My understanding, nobody
24 really uses those books as much. It's more all WES law, but
25 you need some time to cross-reference during the trial or

1 something and that - that's what it's basically for. So,
2 okay, I will do that. And where is Diana Ruff at? Where would
3 I find her?

4 COMMISSIONER BRAD PECK: The Benton County Prosecutor's
5 Office.

6 MAN: Okay. Okay. Perfect.

7 PROSECUTING ATTORNEY SHAWN SANT: I can get you her
8 contact information...

9 MAN: Okay. Thank you

10 PROSECUTING ATTORNEY SHAWN SANT: Commissioner.

11 MAN: Wonderful. That's all I have for today.

12 COMMISSIONER BRAD PECK: Okay. Um, I'll just note for all
13 the parties here and for those listening that the board is
14 always willing to entertain requests for action, regardless
15 of what they are, whether they're funding or - or anything
16 else. And we'll try to remain mindful of the boundaries on -
17 on our authority as a Board of Commissioners. But, uh,
18 certainly we, uh, we won't shy away from thinking, uh,
19 whatever decisions that are requested of us, as long as
20 they're within our - our authority. All right. With that,
21 we're adjourned.

22 MAN: Thank you.

23

24

25

CERTIFICATE

1

2

3

4

5

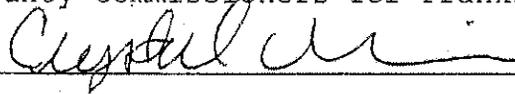
6

7

8

I, the undersigned, do hereby certify under penalty of perjury that this transcript is a true and accurate copy of the hearing tapes that were obtained from the Clerk to the Board of County Commissioners for Franklin County.

Signed

A handwritten signature in cursive script, appearing to read "Crystal", is written over a horizontal line.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BOARD OF COMMISSIONER'S MEETING

April 17, 2018

In Re The Appointment of a Special Deputy Prosecuting
Attorney

18-2-50522-11

Present at Meeting

Commissioner Robert Koch

Commissioner Brad Peck

County Administrator Keith Johnson

Prosecuting Attorney Shawn Sant

Attorney Dale Kamerrer (Appearing Telephonically)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

April 17, 2018

COMMISSIONER ROBERT KOCH: ...papers or vouchers here this morning. Um, first one is fund expenditures. Uh, 13 miscellaneous items, current expense, election equipment, uh, enhance 911 county roads, et cetera. Bottom line of those items is \$528,059.57. And Keith, uh, look at 'em, (unintelligible) and have him sign them.

COMMISSIONER BRAD PECK: Okay. And, uh, I'll second on the motion for approval of fund expenditures (unintelligible) not read. Keith, any comments, questions, concerns about any of these?

COUNTY ADMINISTRATOR KEITH JOHNSON: No.

COMMISSIONER BRAD PECK: Okay. All right. All in favor, please say, "Aye".

COMMISSIONER ROBERT KOCH: Aye.

COMMISSIONER BRAD PECK: Aye.

((Crosstalk))

COMMISSIONER ROBERT KOCH: Second and final is salary clearing and emergency management payroll. Bottom line of those two items is \$740,396.12. And, uh, Mr. (Beet)...

COMMISSIONER BRAD PECK: Mm-hm.

COMMISSIONER ROBERT KOCH: ...and (unintelligible) has, um, cosigned them for me.

1 COMMISSIONER BRAD PECK: Okay. Take - take your motion,
2 second. Um, any comments, questions on any of these, Keith?
3 Anybody? Okay. All in favor, please say, "Aye."

4 ALL COMMISSIONERS: A- aye.

5 COMMISSIONER BRAD PECK: Aye. These are approved, as
6 well.

7 COMMISSIONER ROBERT KOCH: With that, I would move
8 approval of the consent again to 1 through 13 as presented.

9 COMMISSIONER BRAD PECK: Okay. And I'll second with
10 discussion, assuming that there's no items that you wanna
11 pull out for separate, uh, action?

12 COMMISSIONER ROBERT KOCH: I have nothing to pull.

13 COMMISSIONER BRAD Peck: Okay. Um, went through these a
14 couple of times and Keith and I went through them again
15 yesterday. Uh, Keith, we had a few, uh, topics that we
16 discussed. Can I assume that we've addressed those?

17 COUNTY ADMINISTRATOR KEITH JOHNSON: Yes.

18 COMMISSIONER BRAD PECK: Okay. All right.

19 COUNTY ADMINISTRATOR KEITH JOHNSON: Can we make some,
20 uh, a brief language change in the, uh, first item on the
21 (unintelligible) regarding what, uh, board action would take?

22 COMMISSIONER BRAD PECK: Right.

23 COUNTY ADMINISTRATOR KEITH Johnson: And the treasurer
24 would act, uh, subsequent to the board actions
25 (unintelligible) expense expected (unintelligible).

1 COMMISSIONER BRAD PECK: Okay. Most of the others, if
2 not all the others, were more observations on process
3 improvements, so - okay. So motion and - and a second for
4 consent agenda. All in favor, please say, "Aye."

5 ALL COMMISSIONERS: Aye.

6 COMMISSIONER BRAD PECK: Aye. Okay. Consent agenda is
7 approved as presented. We are well ahead of schedule, so
8 let's go ahead and take a moment to sign these. Now, Keith,
9 uh, I don't think we're ready to start yet with
10 administrative office business, but if you wouldn't mind, uh,
11 summarizing for us what items you'll have today. I see on the
12 agenda the Superior Court Judges will have a discussion
13 there. I'm presuming that for good reason that's not an
14 executive session, but open session.

15 COUNTY ADMINISTRATOR KEITH JOHNSON: Correct. Uh...

16 COMMISSIONER BRAD PECK: Okay.

17 COUNTY ADMINISTRATOR KEITH JOHNSON: They have asked, uh,
18 (unintelligible) and appointed counsel (unintelligible) to
19 be, uh, called by telephone to, uh, speak with the board,
20 make that request on their behalf.

21 COMMISSIONER BRAD PECK: Okay.

22 COUNTY ADMINISTRATOR KEITH JOHNSON: And it...

23 COMMISSIONER BRAD PECK: Oh, thank you. Okay. Do we have
24 particular time that Mr. Kamerrer is gonna ring the phone?

25 COUNTY ADMINISTRATOR KEITH JOHNSON: I told him maybe -

1 approximately 9:00. We're ahead of schedule.

2 COMMISSIONER BRAD PECK: Yeah, I - I thought whatever
3 was g- okay. And we'll be calling him, will we?

4 COUNTY ADMINISTRATOR KEITH JOHNSON: Yes.

5 COMMISSIONER BRAD PECK: Okay. Sounds good. Do you wanna
6 sit in the (unintelligible) now?

7 ALL COMMISSIONERS: Yeah.

8 COMMISSIONER BRAD PECK: See if we can get this done by
9 9:20. Keith, my understanding is the judges will not be
10 joining us in person this morning. Mr. Kamerrer will be
11 representing.

12 COUNTY ADMINISTRATOR KEITH JOHNSON: That's my
13 understanding, yeah.

14 COMMISSIONER BRAD PECK: Okay. And is Mr. Sant going to
15 be here? The - we don't know? Okay. I saw (Craig) out there,
16 didn't ya? I hope the operating manual for this grater is
17 shorter than this contract.

18 COUNTY ADMINISTRATOR KEITH JOHNSON: Yeah.
19 (Unintelligible).

20 COMMISSIONER BRAD PECK: You (unintelligible) all those?

21 ALL COMMISSIONERS: Mm.

22 COMMISSIONER BRAD PECK: Morning, Mr. Sant.

23 PROSECUTING ATTORNEY SHAWN SANT: Morning.

24 COMMISSIONER BRAD PECK: And it's just about done here,
25 so - well. (You wanna) go ahead and start now?

1 WOMAN: (Unintelligible) and (Massoni).

2 COUNTY ADMINISTRATOR KEITH JOHNSON: Good morning, uh,
3 this is Keith Johnson and the Franklin County Board of, uh,
4 Commissioners calling for Dale Kamerrer.

5 WOMAN: Sir, Keith Johnson?

6 COUNTY ADMINISTRATOR KEITH JOHNSON: Yes.

7 WOMAN: Unintelligible) one moment.

8 PROSECUTING ATTORNEY SHAWN SANT: Let 'em know, too,
9 that the call's being recorded.

10 ATTORNEY DALE KAMERRER: Mr. Johnson?

11 COUNTY ADMINISTRATOR KEITH JOHNSON :Dale, good morning,
12 this is Keith Johnson, Franklin County Administrator at the,
13 uh, Board of Commissioners meeting with, uh, Chairman, uh,
14 Brad Peck and Commissioner Bob Koch. How are you this
15 morning?

16 ATTORNEY DALE KAMERRER: Yes, hi. Hi, (unintelligible).

17 COUNTY ADMINISTRATOR KEITH JOHNSON: Good. I'd like to,
18 uh, just let you know for the - the record that this meeting
19 is - is being recorded and there are members of the public in
20 the audience.

21 ATTORNEY DALE KAMERRER: Okay.

22 COUNTY ADMINISTRATOR KEITH JOHNSON :I'll turn this to
23 Commissioner Peck.

24 ATTORNEY DALE KAMERRER: I - I - I take it we're not in
25 executive session?

1 COUNTY ADMINISTRATOR KEITH JOHNSON :That's correct.

2 ATTORNEY DALE KAMERRER: Okay.

3 COMMISSIONER BRAD PECK: Good morning, Mr. Kamerrer, how
4 are you?

5 ATTORNEY DALE KAMERRER: I am fine, thank you.

6 COMMISSIONER BRAD PECK: You and I have spoken
7 previously on county business but, uh, nothing otherwise.

8 ATTORNEY DALE KAMERRER: Yes.

9 COMMISSIONER BRAD PECK: I trust that's, uh, true of
10 Commissioner Koch, as well.

11 COMMISSIONER ROBERT KOCH: Also, yeah.

12 COMMISSIONER BRAD PECK: Okay.

13 COMMISSIONER ROBERT KOCH: Good morning.

14 COMMISSIONER BRAD PECK: So, uh, on our agenda this
15 morning is the topic, uh, Superior Court Judges Funding
16 Request for Legal Fees, and, uh, with that, uh, I'm just
17 gonna go ahead and hand the opportunity to you since this is
18 a request from, uh, uh, from the judges that you are
19 presenting on their behalf, correct?

20 ATTORNEY DALE KAMERRER: That's correct. Uh, let - let
21 me begin, uh, by saying I'm making this presentation on
22 behalf of the judges of the Franklin County Superior Court,
23 uh, because although they have disqualified themselves from
24 hearing or deciding the current lawsuit involving the court
25 and the clerk, they don't want to make public statements that

1 could be misinterpreted a- as an attempt to influence the
2 lawsuit, so they've asked that I speak for them today, and
3 I'm making this request on their behalf, not - not mine. Uh,
4 this...

5 COMMISSIONER BRAD PECK: Mr. Kamerrer, excuse me - uh...

6 ATTORNEY DALE KAMERRER: The - the judges understand
7 that the prosecutor does not have a budget for outside
8 counsel that is sufficient to fund this litigation, and while
9 the judges are certain that the prosecutor's appointment of
10 this attorney to represent them included authorizing
11 representation in litigation if it became necessary, we
12 certainly understand budgetary limits. Uh, therefore, I'm
13 asking on behalf of the judges that the board fund this
14 litigation for three reasons, one, because of the importance
15 of the issues, which I'll talk a little more about, uh, in a
16 minute, but two, because of the clear authority of the
17 superior court to control the records of the court which are
18 maintained by the clerk, and then three, because of the clear
19 refusal of the clerk to abide by the court's rule on
20 maintaining and providing paper records until transition to a
21 fully electronic file system can occur in a manner that is
22 satisfactory to the court. The issues here are extremely
23 important because they concern whether the Superior Court has
24 the authority to control the manner in which the records the
25 court relies on to hear and decide cases are filed,

1 maintained and produced for their use. Uh, these cases, of
2 course, include criminal, civil, juvenile, domestic
3 relations, parental rights, guardianship and mental
4 incompetency cases. All extremely important cases for the
5 citizens of Franklin County. The cases are assigned to the
6 Superior Court for adjudication, not to the clerk. Uh, the
7 case files while inform and guide the court in making its
8 decisions and then ultimately record the court's decisions
9 have to be complete, accurate and accessible in all locations
10 where the court conducts its proceedings. Nowadays, the court
11 conducts proceedings in several locations, not just the court
12 rooms, and not all of those locations have access to the
13 electronic files. Uh, and, by the state constitution, the
14 clerk is the Superior Court's clerk and is a subordinate
15 office to the court for the purposes of maintaining its
16 records. The clerk is not a fully independent office. Um, and
17 although the judges, uh, are fully in support of making the
18 move to the Odyssey Electronic System, that just has to be
19 done with the court's guidance and consent so that its
20 obligations to the litigants and other stakeholders in the
21 judicial system can be maintained. As the Odyssey system now
22 exists for Franklin County cases, the judges do not believe
23 it assures the constitutional due process and other
24 constitutional compliance that the court is obligated to
25 guarantee, and as to which the court can find its decisions

1 reversed by appellant courts if that guarantee is not upheld.
2 Our pleadings in this case - I don't know whether you've seen
3 those or not, but they demonstrate that all of the legal
4 authorities that have considered the issue of whether the
5 clerk or the court controls the court's records have come
6 down on the side of court control. In our pleadings in this
7 case, we supported this, uh, position with specific citations
8 and we attached copies of statutes, decisions of the Supreme
9 Court of Washington and an attorney general's opinion all
10 supporting our position. In brief, those precedents hold that
11 the clerk must conform to the statutes and court rules that
12 relate to his performance of matters that affect the court.
13 This includes local court rules, which the Superior Court is
14 specifically empowered to adopt. We have seen nothing from
15 the clerk that suggests these authorities are not
16 controlling. Therefore from the clerk's standpoint, his best
17 alternative is to upset this litigation process, which is
18 otherwise headed toward a resolution of this issue in a
19 definitive manner. Um, the clerk's refusal to recognize the
20 court's authority over its records, um, and - and refusal to
21 comply with a local court rule that expressly directs the
22 court to maintain paper records, uh, pending the court's
23 agreement to transition to the electronic system presents a
24 constitutional separation of powers conflict that threatens
25 the administration of justice anywhere a county clerk decides

1 to resist the court's management of its own records. It's
2 unfortunate that Franklin County looks like a test case, but
3 it's only the Franklin County Clerk who has taken the
4 position that he has control of the court's records, and
5 other clerks though are - are doubtlessly waiting and
6 watching this county to see whether the court's authority
7 will be enforced. That's what we seek to do in this lawsuit.
8 Um, I'm happy to answer your questions and, uh, I - I
9 understand that there's been a suggestion that (Benton)
10 County ought to share in the cost of an attorney in this
11 matter, and I think that probably starts from the premise
12 that operational costs for Superior Court are shared, or - or
13 - or a belief that the - that is shared, but that's not
14 completely correct. Costs that are associated with the
15 separate (Benton) and Franklin Courts are not shared. For
16 example, each county pays for its own interpreters,
17 computers, uh, printers, furniture, telephones, uh, courtroom
18 technology and things of that sort. Um, and there's a
19 significant, uh, uh, budget item for those expenditures in
20 (Franklin) County on its own, and separately in (Benton)
21 County, on its own. Um, asking (Benton) County to partic-
22 participate in the cost of attorney's fees in this case would
23 be inconsistent with historical practice, and it likely would
24 be refused because (Benton) County's clerk has not refused to
25 accept the Superior Court's authority over the transition to

1 electronic records. They simply don't have a stake in this
2 issue except, uh, at, uh, as a - as a bystander. Um, so a-
3 again, let me just, uh, summarize by saying I'm happy to
4 answer questions, but we, uh, a- uh, I on behalf of the
5 Superior Court ask that you, uh, authorize funding for this,
6 uh, uh, particular litigation. I don't know whether you have
7 been provided with any dollar amounts that we're e-
8 estimating for this. I could talk about that, also.

9 COMMISSIONER BRAD PECK: Okay. Thank you. Commissioner
10 Koch, any questions, comments and, uh...

11 COMMISSIONER ROBERT KOCH: Mm, I'd like to have him
12 finish his statement with the possible cost. I've heard
13 rumors, but...

14 COMMISSIONER BRAD PECK: Okay. Okay. Um, Mr. Sant, are
15 you planning to discuss this with the board this morning, as
16 well?

17 PROSECUTING ATTORNEY SHAWN SANT: Uh, I'm available if
18 there's questions.

19 COMMISSIONER BRAD PECK: Okay.

20 PROSECUTING ATTORNEY SHAWN SANT: I don't think it would
21 be appropriate for me...

22 COMMISSIONER BRAD PECK: I just - just wanna make sure
23 that we gave you an opportunity if you desire. Okay. Um, so,
24 Mr. Kamerrer, Commissioner Koch is asking if you could share
25 with us those estimated costs, and I would add not just the

1 cost of the initial action, but any potential appeal.

2 ATTORNEY DALE KAMERRER: Yes. I had previously told the
3 judges that I estimate the cost - the - the cost from this
4 point, uh, uh, that is, there - there has been about \$4,500
5 in fees and costs incurred to this point. I estimate another
6 \$5,000 at the Superior Court level. I believe we can get a
7 decision, uh, the Superior Court - this has now been assigned
8 to the (Kititass) County Super Court and a particular judge
9 there. Uh, I - I believe we can get a decision of that court
10 in two hearings, uh, at the most. Perhaps one hearing. Um,
11 and, uh, and so that's - that's the basis for that \$5,000
12 estimate. But then, if, uh, the case is appealed, which is
13 certainly a possibility, um, I estimate another \$5,000 to get
14 through the point where we have either an ap- court of
15 appeals decision or a Supreme Court decision, depending on
16 which court it goes to initially. So I'm estimating \$10,000
17 more if it goes all the way through a appellate court
18 decision process.

19 COMMISSIONER BRAD PECK: And if it would go to the State
20 Supreme Court, how much would you add on top of that 10?

21 ATTORNEY DALE KAMERRER: I- I'm including the Supreme
22 Court.

23 COMMISSIONER BRAD PECK: Okay.

24 ATTORNEY DALE KAMERRER: Because I think it's going to
25 be an either/or situation.

1 COMMISSIONER BRAD PECK: Okay.

2 ATTORNEY DALE KAMERRER: Either it will go to the court
3 of appeals and end there, or it will go directly from
4 Superior Court to the Supreme Court.

5 COMMISSIONER BRAD PECK: Okay.

6 ATTORNEY DALE KAMERRER: Either way...

7 COMMISSIONER BRAD PECK: Either way, it's 10?

8 ATTORNEY DALE KAMERRER: ...I - I estimate that
9 additional \$5,000.

10 COMMISSIONER BRAD PECK: Okay. So just to be clear, it's
11 \$4,500 to date. Um, another \$5,000 at Superior Court level,
12 and then, uh, an additional \$10,000...

13 All Commissioners: Additional.

14 COMMISSIONER BRAD PECK: Additional 5 for appeals.

15 ATTORNEY DALE KAMERRER: Yeah.

16 ATTORNEY DALE KAMERRER: Correct.

17 COMMISSIONER BRAD PECK: Okay. So that would - usin' the
18 \$4,500 to date, the 5 in Superior and the 5 at appeals, that
19 would be 14.5?

20 ATTORNEY DALE KAMERRER: Yes.

21 COMMISSIONER BRAD PECK: Yeah. Okay.

22 ATTORNEY DALE KAMERRER: And the - the - this is an
23 estimate.

24 COMMISSIONER BRAD PECK: I - I understand.

25 ATTORNEY DALE KAMERRER: We - the attorneys can't

1 always predict the course that a given case will take, and
2 there are sideshows and additional processes that can come
3 along that require more attorney work, but, uh, as best as I
4 can estimate, that's - that's what I have.

5 COMMISSIONER BRAD PECK: Okay. Commissioner Koch, other
6 questions?

7 COMMISSIONER ROBERT KOCH: I have none other at this
8 point.

9 COMMISSIONER BRAD PECK: Okay. Um, Mr. Kamerrer, you
10 talked about the, uh, notion or the concept of shared cost
11 between the counties. The, uh, the plaintiffs in this action
12 are, um, the seven members of the Superior Court representing
13 the (Benton)/Franklin, uh, Superior Court, which is an entity
14 unto itself, and the paperwork I saw was signed by all seven
15 judges, so whether the action directly affects things
16 happening in (Benton) County or not, it - it does appear that
17 the action - the plaintiff here is the entire
18 (Benton)/Franklin/(Bide) County, uh, Superior Court System.
19 Uh, do you think that that, uh, in any way, uh, speaks to or
20 should impact who pays for plaintiffs costs?

21 ATTORNEY DALE KAMERRER: My understanding is that each
22 court -- uh, that is, (Benton) and Franklin -- uh, stand on
23 their own. Uh, depending on where a g- a given judge of this
24 joint judicial district is assigned, he or she is acting for
25 the Franklin County Superior Court or the (Benton) County

1 Superior Court depending on the jurisdiction of the case that
2 he or she is presiding over, and that it is not an actual
3 joint entity that operates, uh, a- in all respects, uh, as a
4 single organization, and I think that the evidence of how,
5 uh, many of the costs that I listed, um, that are separately
6 provided for by each of the two counties is the best evidence
7 of - of how this is a separate - these are separate courts,
8 uh, that share - they certainly share the county's half of
9 the salaries of the judges, but with respect to these other
10 things, they're quite distinct, and I think that that - since
11 this issue only exists, uh, relative to Franklin County, uh,
12 because of its clerks refusal to abide by the local court
13 rule, um, it - it is one of those separate incidences, or at
14 least analogous to one of those separate expenses.

15 COMMISSIONER BRAD PECK: Okay. Um, what, uh, what do you
16 see as the path forward for plaintiffs if the county declines
17 to, uh, to fund a lawsuit against ourselves?

18 ATTORNEY DALE KAMERRER: Well, I would certainly need
19 to sit down with the judges and seek their counsel. I - I
20 know, uh, because there is case law that exists on this, that
21 - that court rules which require, uh, city or county
22 expenses, uh, can be enforced, uh, by the court, um, at - at
23 city or county expense, and I - I know you have Sean there.
24 He may wanna look at the case, uh, called City of Seattle
25 versus State, and I'll just - I'll tell th- this for him,

1 it's at 100 Washington 2nd, page 16, um, and it's a - it's a
2 case where, um, the court, uh, r- uh, a court rule required
3 cities to purchase recording equipment for municipal courts,
4 and the City of Seattle sued, claiming that it was entitled
5 to reimbursement from the state, um, because of the statute
6 that said that the state is responsible for new expenditures
7 required of cities and counties, but the - the Washington
8 State Supreme Court ruled in that case that, uh, expenditures
9 by a city or county that are necessary because of a court
10 rule are the obligation of the affected city or county, not
11 an obligation imposed by the state legislature. And I think
12 that's an analogous situation here that suggests, um, uh,
13 perhaps that the court could require this expenditure, but
14 nobody wants to go there.

15 COMMISSIONER BRAD PECK: Okay. Uh, Mr. Kamerrer, you
16 started this conversation by saying that you were
17 representing the judges. Um, you are doing that, um, under
18 the authority, uh, provided when you were retained by
19 Franklin County. Is that correct?

20 ATTORNEY DALE KAMERRER: Um, I - I - actually, I've
21 been appointed by Mr. Sant as - as a special deputy for this
22 purpose. Um...

23 COMMISSIONER BRAD PECK: Okay. So, like, my, uh,
24 terminology was probably imperfect, I apologize for that, but
25 in any case, you've - you've been, uh, uh, in writing, uh,

1 provided authority to represent the bud- the judges in this
2 matter and I'm curious about that authority. Did it, uh, did
3 it speak to limits on your, uh, your role and - and what, uh,
4 services you could or could not provide?

5 ATTORNEY DALE KAMERRER: Um, my understanding is that
6 the appointment of me, um, springs from the fact that the
7 prosecutor, uh, can't represent, uh, and advise two
8 conflicting...

9 COMMISSIONER BRAD PECK: Mm.

10 ATTORNEY DALE KAMERRER: ...uh, offices that h- are
11 associated with the county, and we - we attorneys have to be
12 mindful of those potential conflicts, whether you're in
13 private practice or - or, uh, in a governmental position, so
14 that essentially I was appointed to what the prosecutor could
15 do if there wasn't a conflict in representing the, uh,
16 Superior Court, and I sent, um, uh, Mr. Sant a letter dated
17 February 6 of this year where I expressed my understanding of
18 the nature of the appointment, and I'll just read the one
19 sentence that concerns that, and it says, "I understand and
20 agree that I am being retained to represent the Franklin
21 County Superior Court, to analyze and advise, negotiate and
22 represent in legal proceedings, if necessary, the court as to
23 issues surrounding the court's local rule, requiring the
24 county clerk to maintain paper records of proceedings in the
25 Franklin County Superior Court." So that is my understanding

1 of the, uh, appointment I received, uh, addition to simply
2 being a special deputy prosecutor.

3 COMMISSIONER BRAD PECK: And - and...

4 ATTORNEY DALE KAMERRER: But Mr. Sant did acknowledge
5 and sign that - that letter.

6 COMMISSIONER BRAD PECK: So what was - what was the date
7 on that letter?

8 ATTORNEY DALE KAMERRER: February 6, 2018.

9 COMMISSIONER BRAD PECK: Okay. And you said Mr. Sant
10 signed and accepted those terms?

11 ATTORNEY DALE KAMERRER: Yes.

12 COMMISSIONER BRAD PECK: When was that? Oh, I think I
13 just got handed a copy. It was 7 -7.

14 ATTORNEY DALE KAMERRER: It was, uh, February 7, 2018.

15 COMMISSIONER BRAD PECK: ...okay.

16 ATTORNEY DALE KAMERRER: If...

17 COMMISSIONER BRAD PECK: I'm just...

18 ATTORNEY DALE KAMERRER: If you have a copy of that,
19 because...

20 COMMISSIONER BRAD PECK: I...

21 ATTORNEY DALE KAMERRER: ...I can certainly send that
22 over.

23 COMMISSIONER BRAD PECK: I was just handed a copy. I'm
24 just...

25 ATTORNEY DALE KAMERRER: Okay.

1 COMMISSIONER BRAD PECK: ...just reviewing it quickly.
2 Um, (unintelligible). Okay, um, Mr. Sant, we're certainly
3 not, you know, trying to conduct ourselves like a court and
4 hear sides of an argument -- we're just focused on the
5 funding piece. Uh, whether Franklin County, uh, funds the
6 defense of the clerk in this matter I think is not in
7 question. He's an elected, uh, official of Franklin County
8 and as I understand, we have a duty to defend him, so we can
9 set that aside. The question here appears to be focused
10 solely on whether or not we have a commiserate duty to fund
11 representation for, uh, the Superior Court of Judges as
12 plaintiffs suing the County and, uh, I am highly reluctant to
13 spend taxpayer money on any litigation. Uh, we'll do so when
14 it comes to meeting our obligations to defend one of our
15 elected officials, but it certainly gets gray for me in a
16 hurry when you start talking about funding an action against
17 ourselves, which is essentially what this would be. Um, but
18 the letter I'm looking at here does - does say "negotiate and
19 represent legal proceedings if necessary," which would seem
20 to cover what's being requested, so if there's anything you
21 can offer that might help me differentiate - but it does
22 appear that we've got a - a written agreement where we've
23 said we would.

24 PROSECUTING ATTORNEY SHAWN SANT: Uh, there's - there is
25 a couple, uh, questions for concern. One is looking at the

1 "shall," uh, authority of what the obligations of a
2 prosecuting attorney are. Uh, as previously discussed, with
3 the - with the Board, uh, we reached out to the State
4 Attorney General's office, that under the same obligations as
5 we previously discussed, the Superior Court Judges are dual
6 officers. Uh, there's cases that make it very clear that
7 Superior Court Judges, because of their nature, they
8 represent typically, uh, multiple counties, or they can
9 represent multiple counties, um, the Court opinions, uh, have
10 basically held up - they are State officers - they're dual
11 officers. They're both a County officer, but they're also a
12 State officer. We reached out to the State Attorney General's
13 office to seek their assistance because, a- again, th- this
14 is a conflict action, uh, between two, uh, elected bodies,
15 uh, within Franklin County and it's clear that there would be
16 a - a conflict in trying to determine which side we should
17 represent. As we have discussed previously, the County
18 Prosecuting Attorney is obligated to defend the County, uh,
19 defend its officers - defend its elected officials, uh, as
20 may be the case. It's an elective process though to initiate
21 a - a litigation and I recognize the language that both Mr.
22 Kamerrer and myself, uh, signed onto. If necessary, it
23 becomes kind of I think a- i- important question of whether
24 or not it's necessary because there - th- that could extend
25 also, as Mr. Kamerrer indicated -- one of these parties is

1 probably not going to be satisfied with the Lower Court's
2 decision. So that would require going on to appeal to a
3 higher Court and potentially the Washington State Supreme
4 Court. Certainly, the County legislative body as well as a
5 prosecuting attorney, as well as the State Attorney General's
6 office, has the discretion to elect whether or not to
7 initiate a - a particular suit. There's no obligation that I
8 or any of my deputies that have the same authority that I
9 would have, uh, would be obligated to - to carry a case
10 forward. Um, so we recognize that the State has declined to
11 represent this case. Their explanation was similar to what we
12 have previously discussed with the Board, which is this is
13 more of a plaintiffs'-oriented case. It's a - it's a
14 plaintiffs' action that was originally filed seeking damages.
15 I recognize there's been an amendment that basically, uh,
16 clarifies what relief is actually being sought, but
17 nonetheless, it is a lawsuit against Franklin County and th-
18 that is a discretionary authority. We have to be legal
19 advisor to the legislative authority, we have to be a legal
20 advisor, um, to other officers, uh, as well, uh, but we are
21 not obligated to initiate, uh, legal action, and so that is
22 really the - the question. As I told Mr. Kamerrer, I couldn't
23 authorize further suit because I need to get any kind of
24 authority for prosecuting the County - I would certainly need
25 the Board's, uh, discretion - as the Board's legal counsel, I

1 would certainly need the Board's discretion to authorize such
2 a suit. One of the contemplations with considering the cost
3 with any litigation is that if there's cost on one side,
4 there's going to be at least an equal cost, uh, on the other
5 side, and we are legally obligated to defend Franklin County
6 and its members. That could include any employee of Franklin
7 County if they were acting under, um, their official
8 responsibilities. So that places us in the position that we
9 are - is that we initially, uh, offered to provide
10 representation to the judges just because it appeared that
11 was going to be legal action, uh, taken against the County
12 Clerk, we're obligated to defend that, and rather than th-
13 try to defend that ourselves, we recognized the relationship
14 that we have with our judges as well as with our clerk on a
15 regular basis -- they're both essential for performance of
16 our duties and responsibilities, and so we assigned conflict
17 counsel to the clerk to - to guide through that process. I
18 also extended an offer to the judges if they wanted to have
19 an independent, uh, attorney as well to help facilitate a
20 resolution. So now, we're - it brings us to the point that
21 essentially we are looking at a - a lawsuit and, while not
22 obligated to fund any - any lawsuit, uh, or litigation
23 against the County, that's essentially the - the Board's
24 position. I guess the - the other contrast I would - I would
25 just bring to the Board's attention is that previously, we

1 have other bi-County entities that you're well aware of that
2 we work with -- Human Services, other departments. Whether or
3 not those particular actions may weigh towards a particular
4 actions of one County or the other, certainly, this is an
5 action that has been signed off on all seven. It's very clear
6 that, uh, this is a bi-County entity as well as a - a State
7 entity. The State has exercised its discretion in not
8 proceeding forward. Um, the question now before the Board is
9 whether or not this is something that should be funded and,
10 if funded, should that be (billed for) and solely upon
11 Franklin County, when it's being brought by all seven members
12 of the - the Judiciary in which we share a bi-County judicial
13 district. So, hopefully that gives a little bit of
14 clarification, but...

15 COMMISSIONER BRAD PECK: Yeah, that prompts a few
16 questions. Uh, Mr. Koch, I'll defer to you first and then
17 I've got a few...

18 COMMISSIONER ROBERT KOCH: Uh, as we've said before, I -
19 I - I would foresee no revenue coming from Benton County --
20 period. I...

21 COMMISSIONER BRAD PECK: 'Kay...

22 COMMISSIONER ROBERT KOCH: Yeah, I - I didn't - if the
23 shoe was on the other foot, it wouldn't have come from here,
24 so...

25 COMMISSIONER BRAD PECK: Um...

1 COMMISSIONER ROBERT KOCH: ...um, it's up to us.

2 COMMISSIONER BRAD PECK: 'Kay. So, Mr. Sant, the State
3 AG's office has declined to participate and represent the
4 judges?

5 PROSECUTING ATTORNEY SHAWN SANT: That's correct.

6 COMMISSIONER BRAD PECK: And you feel that this is, uh,
7 more properly, given that counties are agents of the State,
8 this is more properly a State matter? I don't wanna put words
9 in your mouth. I'm trying to make a connection here.

10 PROSECUTING ATTORNEY SHAWN SANT: I think that the unique
11 role that judges have, especially in our judicial district
12 that encompasses two counties, uh, it - it really places them
13 as State officers. Now, they are both th- clearly they are
14 both, but the State recognizes that they have represented
15 judges before when they are the defendants of actions, and
16 the State AG's office has stepped in to represent them on
17 those matters.

18 COMMISSIONER BRAD PECK: What was the basis for them
19 declining this time?

20 PROSECUTING ATTORNEY SHAWN SANT: Essentially, i- the -
21 the sh- the short answer was is that this is on a plaintiffs'
22 side and they originally reached out to AOC, Administrative
23 Office of the Courts, to see if they would fund out of their
24 existing, uh, budget lines. Uh, I believe AOC, because they
25 work closely with both clerks as well as judges, uh, they

1 probably chose not to do that just out of appearance sake,
2 whether they had budget authority in their line or not, I
3 don't think they probably wanted to fund it out of their
4 existing budget, just out of appearance that that might mean
5 that they're siding with the judges. Regardless of their
6 independent position, I - I think they chose to opt out of -
7 of that funding mechanism and the AG's office simply decided
8 to elect its - its discretion action on situations like this,
9 not to initiate, uh, the plaintiffs' side of legal action and
10 chose to decline at that point.

11 COMMISSIONER BRAD PECK: So if I understand what you just
12 said, it may be a combination of the two, but whether they
13 had the funding are not, they didn't see it as a proper role
14 for them?

15 PROSECUTING ATTORNEY SHAWN SANT: I- they just sa- they
16 just saw this as clearly one that's of their discretion of
17 whether or not to represent a - a plaintiffs' action - they
18 chose, uh...

19 COMMISSIONER BRAD PECK: So...

20 PROSECUTING ATTORNEY SHAWN SANT: ...not to.

21 COMMISSIONER BRAD PECK: ...they didn't sense an
22 obligation to do it and they opted not to, is that...

23 PROSECUTING ATTORNEY SHAWN SANT: That's...

24 COMMISSIONER BRAD PECK: ...fair?

25 PROSECUTING ATTORNEY SHAWN SANT: That's fair.

1 COMMISSIONER BRAD PECK: Okay - all right. Um, what, uh,
2 what other options do you see, uh, for the judges if we were
3 not to, uh, fund their legal representation? In other words,
4 how do - how do we resolve this, short of, uh, funding their
5 actions.

6 PROSECUTING ATTORNEY SHAWN SANT: And - and that might be
7 a question we might wanna take up in executive session
8 because now we're getting into areas of...

9 COMMISSIONER BRAD PECK: I understand.

10 PROSECUTING ATTORNEY SHAWN SANT: ...particular legal...

11 COMMISSIONER BRAD PECK: That's - that's...

12 PROSECUTING ATTORNEY SHAWN SANT: ...(unintelligible)
13 so...

14 COMMISSIONER BRAD PECK: ...a fair observation -- you're
15 - you're right. Uh, the engagement letter with Mr. Kamerrer
16 does refer to "negotiate and represent and legal proceedings
17 if necessary." Um, two-part question -- who determines what's
18 necessary? Since we're the - we're the ones that are paying
19 and you're engaging him as your special deputy, who
20 determines when it's necessary and is mediation a legal
21 proceeding?

22 PROSECUTING ATTORNEY SHAWN SANT: Mediation, uh,
23 mediation is certainly a remedy and a - and an option there.
24 Um, it's not the - one that's being requested, um, but it -
25 it's certainly an option that's - that's a far from

1 initiating a lawsuit against Franklin County. So it - so it
2 is different in that regard, is that - is that it's a legal
3 proceeding I guess in some respects. By simply hiring counsel
4 to provide that legal advice, there's a legal component to
5 that mediation, uh...

6 COMMISSIONER BRAD PECK: That's where I was going
7 (unintelligible) we consented to provide funding...

8 PROSECUTING ATTORNEY SHAWN SANT: Yes.

9 COMMISSIONER BRAD PECK: ...mediation which is a legal
10 proceeding, so it seems that really what we're talking about
11 is distinction between what level of representation and whose
12 judgment that (agrees) to. It...

13 PROSECUTING ATTORNEY SHAWN SANT: Either way, if - if we
14 were to proceed forward with mediation, that is going to be
15 funding outside of - that would probably consume a lot of my,
16 um, professional services budget, so I guess wha- the - still
17 question for the Board would be where is that funding going
18 to be, uh, come from. Because...

19 COMMISSIONER BRAD PECK: Well...

20 PROSECUTING ATTORNEY SHAWN SANT: ...this is certainly
21 litigation that was not contemplated in our normal course and
22 as Mr. Kamerrer points out, it's difficult to - um, i- i- we
23 could predict based on experience what - how many hours of
24 service might be required to resolve a particular matter, but
25 that's the question - is we - we don't have a definitive

1 number. We can't really do that. Uh...

2 COMMISSIONER BRAD PECK: Right.

3 PROSECUTING ATTORNEY SHAWN SANT: ...once - once we take
4 a particular course of...

5 COMMISSIONER BRAD PECK: Well I'm not - I'm not looking
6 for a particular number...

7 PROSECUTING ATTORNEY SHAWN SANT: Yeah.

8 COMMISSIONER BRAD PECK: ...what I'm trying to drive to
9 here is, uh, we've got a letter of engagement and it says
10 "including representation of legal proceedings if necessary."
11 What qualifies as legal proceedings -- and it sounds like to
12 a certain extent mediation does -- and who makes the judgment
13 as to when and if it's necessary. And I anticipated that you
14 would say, as a special deputy appointed by you and working
15 UNDER your authority, that that decision authority would -
16 would rest with you but, um, well, you know...

17 PROSECUTING ATTORNEY SHAWN SANT: Well there's...

18 COMMISSIONER BRAD PECK: We've got plenty of lawyers in
19 the room and I'm not one of 'em, so...

20 PROSECUTING ATTORNEY SHAWN SANT: (Unintelligible)...

21 COMMISSIONER BRAD PECK: ...you tell me.

22 PROSECUTING ATTORNEY SHAWN SANT: Well that cert- that's
23 certainly a - a - a question because obviously - let's say
24 the decision was determined by a deputy in my office to take
25 a matter - obviously, that is under my authority there,

1 acting under - under my authority. If it was determined that
2 we need to litigate this all the way up to the U.S. Supreme
3 Court, that would be a substantial cost to the taxpayers.

4 COMMISSIONER BRAD PECK: Sure.

5 PROSECUTING ATTORNEY SHAWN SANT: And so certainly, I
6 believe that it would be retained with the prosecuting
7 attorney to be able to weigh in on - on just what is
8 determined as necessary...

9 COMMISSIONER BRAD PECK: Yeah (unintelligible)...

10 PROSECUTING ATTORNEY SHAWN SANT: ...uh, legal action.
11 Uh, in this particular case, because it's in the nature of a
12 - of a lawsuit, that is not something that I am obligated to
13 take on, so likewise, it's not necessarily inaction -- it's
14 an elective action -- but I'm not trying to present to the
15 Court today that it's an improper action in any way and I
16 shared that with Mr. Kamerrer as well - is that recognize
17 because of the unique nature of the disagreement, I recognize
18 the nature of the filing of the writ that was done - I
19 certainly recognize that as being a - a remedy option for
20 a...

21 COMMISSIONER BRAD PECK: (Right)...

22 PROSECUTING ATTORNEY SHAWN SANT: ...situation like
23 this...

24 COMMISSIONER BRAD PECK: ...so...

25 PROSECUTING ATTORNEY SHAWN SANT: ...really comes down to

1 the funding issue.

2 COMMISSIONER BRAD PECK: So let me just ask then, is it a
3 - a viable option if the Board were to, uh, decide that our
4 first, uh, objective is to represent and protect the
5 interests of Franklin County citizens, which happens to fold
6 -- one is the pursuit of - of justice and - and addressing of
7 a legitimate question -- and two, doing it at - at the least
8 possible cost. If those are in fact our - our goals, um,
9 might the Board authorize funding for mediation and withhold,
10 uh, or - or postpone a decision on any other funding pending
11 the outcome of le- mediation. We are not judges and this is
12 not a court, and we're not in a position to direct anybody to
13 follow a particular course. Uh, you, uh, you know from
14 conversations that we've had on unrelated matters that courts
15 do sometimes, oftentimes in civil cases, direct mediation. If
16 - if, uh, we have opportunity here, it seems to me that, uh,
17 in a pursuit of those two goals - those two goals, protecting
18 the public interest a- from a - a justice perspective and
19 also minimizing costs, that that might be a - a proper path.
20 Do you have thoughts on that? And then I'm gonna ask Mr.
21 Kamerrer the same question.

22 PROSECUTING ATTORNEY SHAWN SANT: I was just gonna say, I
23 think on this particular case, because Mr. Kamerrer is - is
24 specifically involved with the relationship of the
25 particulars of the parties, I'd probably defer to him, uh,

1 first, for his insights to whether it - w- how that would be,
2 uh, suited in this particular case. Uh, me personally,
3 obviously in all the other, uh, litigation that we've been
4 involved with on the civil side, r- mediation is certainly a
5 route we try to pursue if we feel that that is something
6 that's likely going to be of the citizens' best interest --
7 reduce cost -- so - so I - I would really wanna defer to Mr.
8 Kamerrer on the particulars on this case. This is a little
9 bit different, uh, scenario in some respects, uh...

10 COMMISSIONER BRAD PECK: Well it does occur to me that
11 the, uh, differences between the Odyssey system as it stands
12 now in Franklin County and the, um, what I believe to be the
13 expressed desires of the judges for the system, uh, the delta
14 - the gap between those two is not so great that it can be
15 overcome with some effort and some funding, and I would
16 anticipate significantly less funding than a legal proceeding
17 would require. So, again, if our two objectives -- and I
18 believe they are -- are to seek justice and defend the
19 public's financial interests, then, uh, mediation seems to be
20 the - the responsible path. Mr. Kamerrer, uh, your thoughts
21 on that, if you would please?

22 ATTORNEY DALE KAMERRER: Thank you. First, let me
23 clarify about the - the damages issue that - that came up. We
24 carefully crafted our pleadings in this case to avoid any
25 mention of a request for damages. We are not seeking money

1 damages from the County, the clerk, or anyone. We simply want
2 the clerk to be directed and and unequivocal manner to abide
3 by the local court rule. Um, and we even, in, uh, filing an
4 amended complaint, eliminated the usual boilerplate language
5 about recovery of costs and disbursement from this complaint
6 -- we eliminated it. That usual language i- is always when --
7 even when costs and disbursements are awarded -- a minimal,
8 statutorily, uh, limited and specified amount. So there's no
9 risk of - of money judgment against the County or the clerk
10 in this litigation.

11 COMMISSIONER BRAD PECK: Thank you...

12 ATTORNEY DALE KAMERRER: And...

13 COMMISSIONER BRAD PECK: ...thank you for the
14 clarification. I don't think anybody, uh, on the Board or
15 with the County staff, uh, was of a different view than what
16 you just expressed. I think the judges have made that clear
17 and I appreciate...

18 ATTORNEY DALE KAMERRER: (Okay)...

19 COMMISSIONER BRAD PECK: ...I appreciate you, uh,
20 reiterating...

21 ATTORNEY DALE KAMERRER: (Unintelligible)...

22 COMMISSIONER BRAD PECK: ...it for the - for the public.
23 Um, that is important...

24 ATTORNEY DALE KAMERRER: (Unintelligible) bent over
25 backwards to a- avoid that implication...

1 COMMISSIONER BRAD PECK: Right.

2 ATTORNEY DALE KAMERRER: ...of...

3 COMMISSIONER BRAD PECK: And...

4 ATTORNEY DALE KAMERRER: ...we - we wouldn't wanna be
5 misunderstood.

6 COMMISSIONER BRAD PECK: And Dale...

7 ATTORNEY DALE KAMERRER: (So) in terms of me-
8 mediation, a- mediation usually takes place within the
9 context of a lawsuit. Either, uh - uh, the parties agree to
10 mediation or the court directs mediation, but it occurs in,
11 uh, the di- in the scope of a lawsuit. Um, and mediation is
12 simply negotiation -- it is not something that can direct
13 either party to agree to anything -- and we have already gone
14 through that. The - the Court, uh, has attempted to, uh,
15 reach agreement with the Court over control of the Court's
16 records. But in the central part of this is that the Court
17 will not, and has refused expressly, to recognize the Court's
18 authority to control its records. So this will allow him to
19 say he will negotiate, but he will retain the unilateral
20 auth- ability to thwart the needs of the judicial system, as
21 decided by the judges who are responsible for that system.
22 And so mediation, with that, um - uh, condition -- implicitly
23 imposed and actually expressly imposed by the clerk's refusal
24 to follow the court rule -- will mean that mediation will
25 fail and therefore, the cost of mediation will be incurred.

1 And at the end of that unsuccessful process, will have to go
2 back to court. The best way, the least expensive way to get
3 this resolved is to go directly to court, asked the Superior
4 Court Judge (unintelligible) County to review the legal
5 authorities and order what we believe will happen - will
6 order the clerk to abide by the local court rule. That will
7 cut through all of the posturing, um, and - and misdirection
8 that we think this is involved with the clerk's refusal to
9 accept the Court's control over its own records. So we would
10 - we would argue against, uh, heading off on a - a branch
11 called mediation.

12 COMMISSIONER BRAD PECK: (While it) would seem the
13 mediation can be done outside of a lawsuit, certainly on a
14 voluntary basis, but, uh, I - I think your - your meaning as
15 to the, uh, your view of the likelihood of that being
16 fruitful, um, I know you that you don't intend to speak for
17 the - the clerk and how they might or might not participate
18 and what position they might or might not take on this day,
19 as opposed to some previous day, um...

20 ATTORNEY DALE KAMERRER: It - it could - may I say one
21 more thing?

22 COMMISSIONER BRAD PECK: Sure.

23 ATTORNEY DALE KAMERRER: I don't know whether you will
24 have a - a discussion like this with the clerk, but please
25 ask him, 'Do you accept the local court rule concerning the

1 (production) of paper records to the Court, until the Court is
2 satisfied that the Odyssey system is sufficient to rely on
3 exclusively?' Any answer other than, 'Yes,' is - is the true
4 indication of why we need to go to litigation.

5 COMMISSIONER BRAD PECK: Okay. Mr. Sant or Mr. Kamerrer,
6 either one, is there any kind of an objective State standard
7 as to what constitutes a fully functional and reliable
8 Odyssey system, since that is a statewide system? Or is
9 that...

10 ATTORNEY DALE KAMERRER: (Unintelligible)...

11 COMMISSIONER BRAD PECK: ...a local interpretation that
12 could vary in all 39 counties? If there is a statewide
13 Benchmark that we could look to, and that might be a - a path
14 for us. Thoughts?

15 ATTORNEY DALE KAMERRER: Well if - if I could go first,
16 I'm happy to hear Mr. Sant's opinion...

17 PROSECUTING ATTORNEY SHAWN SANT: (Well)...

18 ATTORNEY DALE KAMERRER: ...on this...

19 PROSECUTING ATTORNEY SHAWN SANT: Please...

20 ATTORNEY DALE KAMERRER: ('Cause I've) looked at the
21 Odyssey system and used it from a practitioner's standpoint,
22 it appears to be different, at least slightly, in every
23 county that I've worked in. That - some of that has to do
24 with things that are influencing the Franklin County Superior
25 Court's decision here, and that is the physical facilities

1 that enable them to access, or in some cases not access the
2 electronic system, and so some counties may have physical
3 circumstances that allow that access everywhere the Court,
4 uh, functions -- and others don't. And I think that how what
5 - what they call workflow procedures are organized using the
6 electronic system or in some cases needing to resort to paper
7 records, will be dictated by local circumstances. And so, the
8 - I - I - I imagine someday in the future that all courts
9 across the State will work the same way, but it's not there
10 yet -- (it's not)...

11 COMMISSIONER BRAD PECK: So if I...

12 ATTORNEY DALE KAMERRER: ...even close.

13 COMMISSIONER BRAD PECK: If I may summarize, what I
14 believe I heard you say was that geography and judge
15 preference by County can shift the, uh, the definition of
16 what is a fully functional and acceptable Odyssey system.

17 ATTORNEY DALE KAMERRER: And - and physical
18 circumstances.

19 COMMISSIONER BRAD PECK: Right, that's - that's what I
20 meant by geography, sorry. Uh, geography within a courthouse,
21 for example. I would much rather spend money on - on
22 infrastructure, computers, networks, and whatever's necessary
23 to make Odyssey readily available wherever the judges need
24 it, than certainly to spend it on, uh - uh, on court
25 proceedings because, uh, we're going to adopt Odyssey

1 eventually anyway and were going to incur those expenses at
2 that time. If those expenses can be incurred now to resolve
3 it, then - then that's certainly a preferred path. I
4 understand there's still the remaining issue that you cited,
5 which is whether or not the - the clerk is willing to
6 acknowledge an obligation to abide by the - the court rules
7 and, uh, I, uh, I decline to think that that's certainly not
8 something we're going to solve here. Um, Mr. Koch, we've -
9 we've got a request for funding. There's no specific amount
10 attached, um, and there is some cost estimates that -
11 obviously, estimates are not entirely reliable. Uh, it seems
12 to me that our - our options are to, uh, approve, decline, or
13 defer and, uh, deferral in my book would look like, um, an
14 opportunity, uh, for a week or so to, uh, investigate, uh,
15 other remedies. Not, uh...

16 COMMISSIONER BRAD PECK: (So)...

17 COMMISSIONER BRAD PECK: Not trying to, uh, to run a
18 court proceeding, but just looking for a more cost-effective,
19 um, commitment between the parties here. It's pretty clear
20 what the judges want. Uh, I haven't talked to the clerk. Uh,
21 it sure would be nice if we could resolve this at less cost
22 and, uh, obligation to the citizens, uh, and before we
23 funded, uh, a trial against our- a lawsuit against ourselves,
24 I'd sure wanna feel like we exhausted every other
25 possibility. That's - that's kind of where I'm at. What are

1 your thoughts?

2 COMMISSIONER ROBERT KOCH: Well I would have to agree
3 with that, (right)? (Unintelligible) your what, if any
4 opinion the judges have as far as what it would take to, um,
5 bring it up to where they're comfortable with the, um...

6 COMMISSIONER BRAD PECK: Right.

7 COMMISSIONER ROBERT KOCH: ...the software so to speak or
8 the - the, uh, access to it.

9 COMMISSIONER BRAD PECK: Well that's - because we've
10 committed to Odyssey, I think that's a cost we incur -- no
11 matter how this goes forward, no matter how it resolves, we
12 eventually are gonna have that cost. Um - um, I think the
13 real sticky point likely here is - is whether or not there
14 can be, uh, professional agreement on, um, whether or not the
15 clerk is obligated to adhere to court rules. That appears to
16 be a - the, uh, a hard point with the judges. Um, I would
17 think that, uh, differing, uh, funding for, uh, a week, let's
18 say, to, uh, gives the parties an opportunity to consider
19 whether or not - an opportunity for the judges to tell us
20 what additional infrastructure, computers, etc., they would
21 need to meet their needs. In other words, what - define for
22 us what Odyssey has to look like for it to meet your needs...

23 COMMISSIONER ROBERT KOCH: Right, that's what I was...

24 COMMISSIONER BRAD PECK: ...and - yeah...

25 COMMISSIONER ROBERT KOCH: ...gettin' at - that, uh...

1 COMMISSIONER BRAD PECK: Okay and then for the - the
2 clerk, to, uh, have a - a final opportunity to, uh,
3 acknowledge what his position is - because we've not had an
4 opportunity to discuss, uh, with him. Uh, (unintelligible)
5 I'm - I don't think that I'm known by anyone as a person who
6 likes to, uh, kick the proverbial can down the road -- I like
7 to deal with things head on -- but in this case, I think
8 there's maybe an opportunity for us to, uh, resolve this,
9 short of the citizens of Franklin County paying for a lawsuit
10 against themselves, which I find, uh, offensive in its
11 nature.

12 COMMISSIONER ROBERT KOCH: (We would) like to ask (the)
13 question (unintelligible)...

14 COMMISSIONER BRAD PECK: Sure.

15 COMMISSIONER ROBERT KOCH: Um, if the - the courts choose
16 to defer complete action, uh, it's certainly understandable,
17 but we do provide redirection on the, uh, services that have
18 been billed to date. Um, it seems to me that at least Mr.
19 Kamerrer operated in good faith, understanding that we would
20 be compensated for the...

21 COMMISSIONER BRAD PECK: Yeah I - I don't think there's
22 any - any question there...

23 COMMISSIONER ROBERT KOCH: Exactly.

24 COMMISSIONER BRAD PECK: Yeah...

25 COMMISSIONER ROBERT KOCH: (Unintelligible)...

1 COMMISSIONER BRAD PECK: We- we've got a letter of
2 engagement. It's, uh, signed by Mr. Kamerrer and it's signed
3 by Mr. Sant -- that's, uh, I think clearly a, you know, a
4 financial obligation the County must pay...

5 COMMISSIONER ROBERT KOCH: And I think this is just very
6 possibly ongoing -- it's not necessarily a finished...

7 COMMISSIONER BRAD PECK: Right - right.

8 PROSECUTING ATTORNEY SHAWN SANT: A- and just for the
9 Board's, uh, clarification, I did explain to Mr. Kamerrer
10 that, of course, all the - the funding to date would've
11 certainly been covered. I informed Mr. Kamerrer that I
12 couldn't authorize the litigation, uh, prong of it, um,
13 meaning that certainly that would open up for other avenues
14 if there's other discussions, but i- just a clarification,
15 Dale, wasn't that your understanding as well - that there was
16 no question about any prior services rendered o- whether
17 payment would be made -- it was just the ongoing funding of
18 the litigation?

19 ATTORNEY DALE KAMERRER: Well, yeah. I - I think in my
20 last bill I have several items where I just decided not to
21 make any charge for because, uh, of your suspension of, uh,
22 my, uh, representation and - and so I appreciate, uh - uh,
23 the c- the Board's and your willingness, uh, t- to pay me for
24 the w- work I've been doing, uh, since then, uh, and, uh -
25 uh, so - yeah. I'm - I'm stat- satisfied with the situation.

1 COMMISSIONER BRAD PECK: Okay well I think, uh, all
2 things considered, um, our first duty is to the citizens in
3 trying to resolve this that a - at a lower level and less
4 cost without the citizens having to sue their - themselves,
5 which is effectively what's happening. Um, I think we - we
6 defer this at least for a week, uh, so that we can get a
7 better definition, frankly a clear picture, of where the
8 parties are and - and how big the - the delta or the gap is
9 between. Um, I leave open the - the possibility and the hope
10 that, uh, one or both of the parties will acknowledge that,
11 while they may have a perfectly, um, legal and ethical
12 position that they are defending, that sometimes the - the
13 discretion, as they say, is the better part of valor and -
14 and relenting and their position for the benefit of the
15 County is, uh, is a more appropriate, uh, course. So I would,
16 uh, I think I'd like for us to take a week to see if that
17 opportunity exists before we...

18 COMMISSIONER BRAD PECK: Yeah.

19 COMMISSIONER ROBERT KOCH: ...take this any further.

20 COMMISSIONER BRAD PECK: I agree.

21 COMMISSIONER ROBERT KOCH: Mr. Kamerrer, um, do I need to
22 clarify that any or was that sufficiently clear where - where
23 the Board is today?

24 ATTORNEY DALE KAMERRER: That's clear. Thank you for
25 the opportunity to listen to me.

1 COMMISSIONER BRAD PECK: Okay, thanks - thanks very much.
2 Mr. Sant, anything else before we disengage Mr. Kamerrer?

3 PROSECUTING ATTORNEY SHAWN SANT: N- nothing further.
4 Thank you.

5 COMMISSIONER BRAD PECK: Okay so with that, we'll be
6 finished with this topic and, uh, Mr. Kamerrer, thanks very
7 much and we're gonna go ahead and hang up now.

8 ATTORNEY DALE KAMERRER: All right, thank you. Goodbye.

9 COMMISSIONER BRAD PECK: Thank you.

10 COMMISSIONER ROBERT KOCH: Thanks, Dale.

11 COMMISSIONER BRAD PECK: Okay, um, Mr. Johnson, any other
12 administrative business for us?

13 COMMISSIONER ROBERT KOCH: Uh, not, uh - today I do have
14 (unintelligible) executive session (unintelligible).

15 COMMISSIONER BRAD PECK: Okay, are you anticipating any
16 action following that executive session?

17 COMMISSIONER ROBERT KOCH: No.

18 COMMISSIONER BRAD PECK: And for the benefit of those
19 that are here that may not wanna wait, what, uh, what is
20 the...

21

22

23

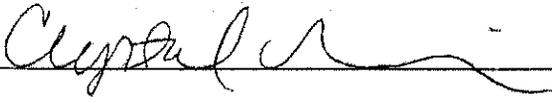
24

25

CERTIFICATE

1
2
3
4
5
6
7

I, the undersigned, do hereby certify under penalty of perjury that this transcript is a true and accurate copy of the hearing tapes that were obtained from the Clerk to the Board of County Commissioners for Franklin County.

Signed 

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BOARD OF COMMISSIONER'S MEETING

May 1, 2018

In Re The Appointment of a Special Deputy Prosecuting
Attorney

18-2-50522-11

Present at Meeting

Commissioner Brad Peck

Commissioner Robert Koch

Commissioner Rick Miller

County Administrator Keith Johnson

Attorney Dale Kamerrer (Appearing Telephonically)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

May 1, 2018

COMMISSIONER BRAD PECK: The Board would like to proceed with the Admin office business. Or do you want to wait 'til there's a sign.

COMMISSIONER ROBERT KOCH: Go ahead as far as I'm concerned.

COMMISSIONER BRAD PECK: You know you're ready to go.

COMMISSIONER RICK MILLER: Yeah I'm ready.

COMMISSIONER BRAD PECK: Okay Keith.

COUNTY ADMINISTRATOR KEITH JOHNSON: Yes thank you, um, there's report that you recall on the 17 of April, we had a discussion with the, uh, the Superior Court Judges, uh, and regarding a request for clemency for, uh, trying to represent them in a, uh, action with our County Clerk. And, um, the board asked the parties to, uh, consider whether there was an alternative to litigation. Uh, mediation or alternative settlement work this out, uh, Mr. (Killian) is out of the country -uh, Guard Duty so he service is unavailable today. But the judges have requested, uh, that their attorney be allowed to speak to the board independent. Give us an update, on the status of that process where they agreed upon settlement before the proceeded to litigation. And, uh, so I would like to dial Mr. Kamerrer and allow his to address the

1 board. I have spoken not with Mr. Kamerrer but with, uh, the
2 prosecuting attorney but also I've spoken with (Rigley) Judge
3 extra and with Mr. (Killian). I think there's probably some
4 room to - to consider negotiating it and try to preclude
5 litigation. But, uh, wanted to have this conversation
6 directly before so, uh, a good idea so you could be, uh,
7 informed. We won't make a decision today, Mr. (Killian), will
8 - will be back probably next week. With respect to what we
9 want to prove additional funding as far as attorneys but, uh,
10 litigation costs but I want the - allow the opportunity to
11 kinda get an update on where they are. Appointment issue.

12 COMMISSIONER BRAD PECK: Any, uh, any objection from the
13 board?

14 COMMISSIONER ROBERT KOCH: No. We need all the
15 information that we can get.

16 COMMISSIONER BRAD PECK: So Mr. (Killian) is very slight
17 technical adjustment is the exact on Navy Reserve Duty
18 overseas guard is kinda state thing. Guard guys get deployed
19 too, I don't want to take that away from them but I just,
20 just a minor detail. Um, there has been, uh, additional, uh,
21 conflict between, uh, those offices this week. Is that part
22 of this discussion as well do you know? I guess we'll find
23 out. Let's bring out Mr. Kamerrer please.

24 Recording: Your call cannot be..

25 COMMISSIONER BRAD PECK: Press 1 first.

1 Woman: Good morning are you calling an attorney?

2 COUNTY ADMINISTRATOR KEITH JOHNSON: Yes this is Keith
3 Johnson with Franklin County and the Board of Commissioners
4 calling for Mr. Kamerrer.

5 Woman: Hold on.

6 COUNTY ADMINISTRATOR KEITH JOHNSON: Thank you.

7 ATTORNEY DALE KAMERRER: This is Dale.

8 COUNTY ADMINISTRATOR KEITH JOHNSON: Dale, good morning
9 this is Keith Johnson from the Franklin County - with the
10 Board of Commissioners in a public meeting this morning.
11 Asking you to, uh, brief the board on the update of where we
12 are on potential avoiding litigation of the matter between
13 the judges and the clerk.

14 ATTORNEY DALE KAMERRER: Okay.

15 COUNTY ADMINISTRATOR KEITH JOHNSON: So I'm let you know
16 that you're on speakerphone in a public meeting. Full board
17 of commissioners here.

18 ATTORNEY DALE KAMERRER: Right thank you. Um, uh, and
19 yes I am speaking for the - the judges in this matter. Um,
20 saying on the same basis as the last time two weeks ago. Uh -
21 uh, because of their, uh, need to avoid, uh - uh, the period
22 to, uh - uh, persuade, uh, in a public meeting. A public
23 setting the outcome of litigation. Um, and once again the
24 judges are committed to implementation of the Odyssey system
25 for electronic, uh - uh - uh, storage and use of court

1 records, um, but the legal issue remains, uh, and it concerns
2 who is entitled to decide when the incremental or total
3 implementation of the Odyssey system can occur. That is not a
4 factual issue that can be negotiated or mediated. It's a
5 legal issue that, from the judge's perspective, either the
6 clerk must concede or a court must decide. That's why we
7 brought this law suit so we could get a court decision
8 because there's no indication that the clerk will concede
9 that the court is legally entitled to control the records it
10 utilities and in some instances creates, uh, to administer
11 justice, uh, through the superior court. In the past couple
12 of weeks, uh, since we last talked I've talked to the judges
13 about the mediation suggestion and about technology solutions
14 to current issues, uh - uh, related to, uh, the Odyssey
15 system, um. Technology may provide some solutions that need
16 to be incorporated into the use of the Odyssey system. But
17 first there has to be collaboration and someone needs to
18 decide what is necessary. And collaboration in this instance
19 is more than the court and the superior court negotiating. It
20 has to include the bar association the criminal defense, uh,
21 organizations, volunteer legal aid organizations, and other
22 interest groups that use the court system. Um, and the
23 product of that, um, needs to be something that assures due
24 process, uh, and is - is otherwise functional. But in a
25 mediation setting everyone's equal where was when a legal

1 issue is central to a debate the law controls. And it
2 determines who is in charge of the outcome of the debate. And
3 legal rights - legal questions are decided in court actions
4 unless the parties all stipulate. Uh, and that's another word
5 for, uh, the clerk conceding that it's the court that
6 controls its records. In the last, uh, two weeks that have
7 passed there have been two instances where the clerk's
8 electronic processes failed. One involved a failure to make
9 timely delivery of an order of the court relating to the
10 incarceration of an individual. The other involved the
11 failure of a deputy clerk to attend an on the record hearing
12 because the clerk had decided that the type of hearing
13 involved was - was not supposed to be in the Odyssey system.
14 Um, and that was a decision made by the clerk without
15 consulting the judges, um, and the result of that was it
16 caused delay and confusion in the courtroom and it adversely
17 affected the rights of the litigants who were before the
18 court. Um, that's the kind of thing that needs to be avoided
19 and can be avoided when the court is in control of the
20 decision making that designs the system and provides for its
21 utilization because the court is obligated to assure due
22 process. Both of the situations that I've described were ones
23 where the clerk had unilaterally decided how the electronic
24 system would be configured and used. And both proved to be
25 inadequate. Uh, in cases where the electronic system fails in

1 - in the circumstance of a person's incarceration or release
2 from jail constitutional due process rights are affected. If
3 you hold a person in jail one day longer than he is supposed
4 to be there your violating his constitutional rights. Um, and
5 that's something that has to be avoided, in part because, of
6 what I'm very familiar with we don't want the county to be
7 liable for the deprivation of someone's constitutional
8 rights. So these things have to be done correctly. And this
9 necessitates court control over the design and implementation
10 of the system. Because the court is the one that has to
11 assure due process rights are protected. And so we're back, I
12 think, to square one in terms of our request. And that is
13 that the Board authorize the funding that necessary subject
14 to the limitations I discussed earlier so we can get a court
15 decision. Uh, alternatively the court could concede and - and
16 stipulate to, uh, the courts control over the development and
17 implication of the Odyssey system. Um, I don't think that's
18 gonna happen so I think we're back to the, um, the judicial
19 process for resolution of the issue. So I'd be happy to
20 answer questions, uh, and thank you for your time.

21 COUNTY ADMINISTRATOR KEITH JOHNSON: Any questions?

22 COMMISSIONER BRAD PECK: So Mr. Kamerrer this is, uh,
23 Commissioner Peck, um, the state AG was consulted earlier in
24 this process and asked if they would, uh, fund the - the
25 judge's legal action on the premise that the superior court

1 is functioning as an agent of the state. And, uh, they
2 declined that opportunity instead for the administrative
3 reasons and - and how the funds would be administered. Uh,
4 I'm wondering if you have an opinion as to whether or not
5 another avenue for resolution might be to make a formal
6 request of the state AG's office for an AG opinion. As to,
7 uh, the merits of the judges position that, uh - uh, that
8 they have the, uh, legal authority to establish and enforce
9 court rules and - and require the clerk to - to follow them.
10 Would a - an AGO - and AG opinion be of any value in getting
11 to that point short of litigation?

12 ATTORNEY DALE KAMERRER: Well there is, uh, and Attorney
13 General Opinion that addresses this issue. It's one we cited
14 in our, uh, motion for the, uh, order to show cause. And, uh,
15 the writ of Mandamus. Uh, it doesn't address this exact
16 question but it does ex- uh, address the question of the
17 courts authority over, uh - uh, the - the records of the
18 clerk. Here's the question that they were asking in that
19 case. Do the judges of the superior court of a county have
20 the authority to adopt a local rule that requires the clerk
21 of the superior court to have all original pleadings and
22 documents that are filed with the clerk's office pertaining
23 to an active case? Physically filed within three court days
24 of physical receipt in the clerk's office. So, uh, and - and
25 of course this was long before the Odyssey systems it was in

1 2001. And essentially the court answered those questions in
2 the affirmative. Uh, and - and so it relates to the court
3 rule that we have at issue here, this case which the court,
4 uh - uh, adopted an order or a rule in January directing that
5 the clerk, uh, provide paper files, uh, to the judges, uh,
6 pending the full adoption of the Odyssey system with the
7 judge's approval. Um, so - so we think that existing attorney
8 general opinion is strongly in support of their position that
9 they can issue this kind of a rule and once it is issued that
10 the clerk is obligated to follow it. Um, you can always be
11 more specific I think in making an attorney general opinion
12 request, um, I don't have any idea of how that would be
13 received there or how long it would take to get the opinion.

14 COMMISSIONER BRAD PECK: Is it your view that, uh,
15 physical record means a tangible probably paper document as
16 opposed to, uh, having it filed three days electronically?

17 ATTORNEY DALE KAMERRERE: Yes, I mean our question
18 doesn't - our issue doesn't concern the three day filing.

19 COMMISSIONER BRAD PECK: I understand. Its - I'm just
20 going to the issue of physical versus electronic record.

21 ATTORNEY DALE KAMERRER: Yes, the - the judges want to
22 have the paper type of records that they have traditionally
23 used available to them where the Odyssey system is not fully
24 up and running to provide those records electronically.
25 Everywhere they need to have them.

1 the legal matter relating to litigation or potential
2 litigation. Up to 25 minutes so that's the, uh, Prosecutors
3 (Sand) and (Jan Johnson), myself (unintelligible) allowed to
4 participate.

5 COMMISSIONER BRAD PECK: Are you anticipating any action
6 following that?

7 COUNTY ADMINISTRATOR KEITH JOHNSON: No.

8 COMMISSIONER BRAD PECK: Okay and, uh, lets, uh, make an
9 opportunity for an public comment period. Anybody wishing to
10 meet with the board. Okay, then we'll move past that to
11 executive session which you've already made request for we'll
12 go into executive session at, uh, approximately 1:02 and that
13 will be for up to 25 minutes as requested.

14 COUNTY ADMINISTRATOR KEITH JOHNSON: Its 10:02.

15 COMMISSIONER BRAD PECK: Excuse me its 10:02 thank you.
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

1
2
3 I, the undersigned, do hereby certify under penalty of
4 perjury that this transcript is a true and accurate copy of
5 the hearing tapes that were obtained from the Clerk to the
6 Board of County Commissioners for Franklin County.

Signed

A handwritten signature in cursive script, appearing to read "Crystal", is written over a horizontal line.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BOARD OF COMMISSIONER'S MEETING

May 8, 2018

In Re The Appointment of a Special Deputy Prosecuting
Attorney

18-2-50522-11

Present at Meeting

Commissioner Brad Peck

Commissioner Robert Koch

County Administrator Keith Johnson

Attorney Heather Yakely

Clerk Michael Killian

Prosecuting Attorney Shawn Sant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

May 8, 2018

COMMISSIONER BRAD PECK: Well, good morning. Welcome to the, ah, weekly meeting of the Franklin County Board of Commissioners. Today is a regular Board Meeting. It's Tuesday, May 8, 2018. And, ah, all three Commissioners are here as well as County Administrator Keith Johnson. At this time we'll call the meeting to order. I invite you to join in the pledge. I pledge allegiance to the flag of the United States of America. And to the Republic of which it stands, one nation under God, indivisible, with liberty and justice for all. Okay. Next item of business is, ah, approval of the minutes. No formal approval or votes required. It, ah, can stand as presented unless there are comments, question, concerns or requested corrections at this time.

COMMISSIONER ROBERT KOCH: Stand as presented.

COMMISSIONER BRAD PECK: Okay. Not hearing any corrections, then the meetings will stand as approved as presented. Move on to, ah, Funding Request for Superior Court Claim. And I understand Mr. Sant and Mr. Johnson are, ah, here to speak to this as well as other parties.

COUNTY ADMINISTRATOR KEITH JOHNSON: I don't see Mr. Sant, but I'm happy to introduce the topic. And we've obviously had some discussions about this over the past

1 number of weeks. Ah, I notice that, ah, Mike Killian and -
2 and his attorney, Heather Yakely, are here today. Ah, so, ah,
3 Heather wanted to address the Board, you want to respond to
4 questions? Ah...

5 ATTORNEY HEATHER YAKELY: I would like to address the
6 Board.

7 COUNTY ADMINISTRATOR KEITH JOHNSON: Okay.

8 ATTORNEY HEATHER YAKELY: And I can respond to questions
9 as they see fit.

10 COUNTY ADMINISTRATOR KEITH JOHNSON: That might be, ah...

11 COMMISSIONER BRAD PECK: That'd be fine.

12 COUNTY ADMINISTRATOR KEITH JOHNSON: ...as appropriate
13 as, ah, that's...

14 COMMISSIONER BRAD PECK: Sure. Would you like to just
15 maybe come up, have a seat so we can pick you up on the
16 microphones easily? And maybe if someone's got a minute, they
17 can put in a call to Mr. Sant, make sure that he knows that
18 we're already on agenda here.

19 ATTORNEY HEATHER YAKELY: Would you like me to start in
20 on my questions?

21 COMMISSIONER BRAD PECK: Please.

22 ATTORNEY HEATHER YAKELY: Okay. Um...

23 COMMISSIONER BRAD PECK: You're - you're here on time, we
24 don't want to hold you back.

25 ATTORNEY HEATHER YAKELY: Thank you, Sir. Ah, good

1 morning, Commissioners. As I understand, the issue that is
2 currently pending, this is, um, whether or not the County
3 should fund the judge's lawsuit against the Clerk's Office.
4 Um, it is a Writ of Mandamus, so there's no actual money
5 being requested. Um, rather the c- the judges are asking for
6 you to pay to enforce a court rule against, um, the Clerk's
7 Office. So I was not present for, ah, Mr. (Kammerer)'s
8 presentations, but I do understand that there were three
9 questions, um, that you posed. And I'm gonna answer those
10 questions first. And then if you have specific questions, I'm
11 happy to answer those. And obviously, feel free to jump in
12 whenever you would like. Um, my understanding of the three
13 questions or - or three of the varied remaining questions is
14 one, how much will this litigation cost? Two, which equipment
15 is necessary to make Odyssey fully functional. And three,
16 would mediation be useful? So I want to answer those first
17 three questions. And I also want to say that this is not from
18 the Clerk's perspective an Odyssey issue. I don't know how
19 familiar the - the County Commissioners are with Odyssey, but
20 Odyssey is a \$50 million endeavor by the State of Washington.
21 And that ship sailed a long time ago when they invested that
22 initial money. Um, Franklin County has been using Odyssey for
23 the past two years when they became an early adopter. Um,
24 Judge (Spanner) was on that committee. He was actually on the
25 committee before he even came to Franklin County. So his

1 concerns may or may not be valid. But I would submit that
2 those are more, um, an Odyssey issue than a Board of County
3 Commissioners' issue to jump into the middle of. What this
4 Writ of Mandamus is, is really arguing over is whether or not
5 the Executive Branch - or not the Executive Branch, but the
6 Judi- Judicial Branch can, um, tell your clerk what to do.
7 That's what this lawsuit is about. It is about a
8 Constitutional question. So when we're talking about
9 Constitutional questions in terms of how much will this
10 litigation cost, I'll submit that it won't be the \$5,000 to
11 \$10,000 that Mr. (Kammerer) indicated. Um, I've already spent
12 \$4,000, um, just to get to this point today. And I will also
13 submit that the clerks from around the State are watching
14 this issue very, very carefully. And in fact, they have
15 retained, um, a very preeminent, um, representative to do an
16 Amicus Brief. They are waiting. That's in the works already.
17 And - and the Clerks' Association has done that of its own
18 accord. Because this is a legal issue. Um, and it's a very
19 important issue from the clerks' perspective. So this,
20 unfortunately - or fortunately - will not stop at the State
21 Court level. And from the clerks' perspective, this is an
22 issue that would go all the way up to the Supreme Court. And
23 at that level, you're talking more between \$50,000 and
24 \$75,000. Um, and I would say that's only from my defense
25 side. I'm not speaking as to total cost. And I can't tell you

1 what Mr. (Kammerer)'s thoughts are. But that is the reality
2 of it from the clerks' perspective. This isn't, um - this
3 can't be resolved because of the Constitutional issue that it
4 raises, at the local level. And it would affect all of the
5 clerks. And therefore, the clerks have already - I have
6 reached out to their association and they have made that
7 clear to me that they are prepared, um, to go forward with
8 filing amicus and - and providing assistance in this matter.
9 Um, so that's how much will this litigation cost. I think
10 it...

11 COMMISSIONER BRAD PECK: So you - you've invited us to
12 jump in with questions. So let me just...

13 ATTORNEY HEATHER YAKELY: Please do.

14 COMMISSIONER BRAD PECK: I just want to clarify. You said
15 it won't stop at the State Court level. And you think it'll
16 go to the - potentially to the - presumably the US Supreme
17 Court.

18 ATTORNEY HEATHER YAKELY: Washington...

19 COMMISSIONER BRAD PECK: Did - did you mean to say that?

20 ATTORNEY HEATHER YAKELY: Washington State Supreme Court.
21 My apologies.

22 COMMISSIONER BRAD PECK: Okay. 'Cause you said it won't
23 stop at the State Court level. I wasn't - I thought that the
24 State Supreme Court could do it.

25 ATTORNEY HEATHER YAKELY: My apologies. Yes.

1 COMMISSIONER BRAD PECK: Okay. All right.

2 ATTORNEY HEATHER YAKELY: It would go to the State, um...

3 COMMISSIONER BRAD PECK: Okay.

4 ATTORNEY HEATHER YAKELY: ...Supreme Court.

5 COMMISSIONER ROBERT KOCH: And - and you said an amount.
6 What was that amount that you would have again?

7 ATTORNEY HEATHER YAKELY: It - you know, I mean, I'm -
8 it's a..

9 COMMISSIONER ROBERT KOCH: Yeah, it's...

10 ATTORNEY HEATHER YAKELY: It's a broad figure, but...

11 COMMISSIONER ROBERT KOCH: It's...

12 ATTORNEY HEATHER YAKELY: ...\$50,000 to \$75,000 for...

13 COMMISSIONER ROBERT KOCH: Yeah. Okay.

14 ATTORNEY HEATHER YAKELY: ...for my side of it. I don't
15 want to speak for Mr. (Kammerer). And Mr. (Kammerer) may not
16 have considered that this was as big of an issue as it was to
17 the clerks. But from the side of the clerks' perspective,
18 that's - that's where this would necessarily have to end up.
19 Um, any other questions about the cost from - from the
20 clerks' perspective? So the second question, I understand,
21 was raised was what equipment is necessary to make Odyssey
22 fully functional? Um, as I've indicated, I don't believe this
23 is about Odyssey. But that being said, um, the clerk has
24 already facilitated tablets and monitors in the chambers, in
25 the court rooms. All of the judges have tablets. So this is

1 certainly not an issue from - again, from the clerks'
2 perspective of, "Just tell me what you need and - and we'll
3 make it work." Um, in the past two years, when Odyssey was
4 implemented...

5 COMMISSIONER BRAD PECK: I - I'm sorry. I- is that an
6 offer that's been extended?

7 ATTORNEY HEATHER YAKELY: Y- yeah, it's been an open...

8 COMMISSIONER BRAD PECK: With - with...

9 ATTORNEY HEATHER YAKELY: ...invitation, yes.

10 COMMISSIONER BRAD PECK: With respect, odyssey, just tell
11 us what you need equipment assistance-wise and we'll provide
12 it?

13 ATTORNEY HEATHER YAKELY: Yeah. It...

14 CLERK MICHAEL KILLIAN: If - if I may interject, they -
15 they already have that equipment, Commissioner Peck.

16 COMMISSIONER BRAD PECK: But other - there - there's some
17 discussion about whether they have all the equipment in all
18 the rooms and all the access that they would desire and I'm
19 just trying to get clarity as to whether or not...

20 CLERK MICHAEL KILLIAN: Mm-hm.

21 COMMISSIONER BRAD PECK: ...your offer means that you
22 would, ah, assist them and in that, obviously it would
23 require funding from the Board. But if we were willing to
24 fund, you would be willing to participate in..

25 CLERK MICHAEL KILLIAN: Of course.

1 COMMISSIONER BRAD PECK: ...expanding the system?

2 CLERK MICHAEL KILLIAN: Mm-hm.

3 ATTORNEY HEATHER YAKELY: And - and the reality of that
4 is, is in the last two years, the only complaint that has
5 been made by any of the judges or commissioners was
6 Commissioner (Peterson) had one concern about photographs.
7 They were scanning the photographs - the - the Clerk's Office
8 was scanning those photographs in black and white. And when
9 she raised that issue, they started scanning them in color.
10 So, again, the clerk's been very, very willing to address the
11 issues raised by - by any of the parties involved. Um, there
12 has not been - un- until Mr. (Kammerer) said that, there has
13 not been any further requests, um, at least that I'm aware
14 of...

15 CLERK MICHAEL KILLIAN: Right.

16 ATTORNEY HEATHER YAKELY: ...ah, for equipment. Um, but,
17 yes, as Mr. Killian confirmed, of course. Because, again,
18 Odyssey's not something anybody can get rid of. Everybody
19 wants it to work smoothly. And the issue isn't - I also
20 understand that there were some comments about due process
21 and concerns about individuals' rights because, you know,
22 what happens if a file is lost? Understand that Odyssey is
23 redundant. There's three backups, two outside of the State of
24 Washington, one in Olympia. And the clerk does not destroy
25 the paper copies. He retains the paper copies pursuant to the

1 State Retention Policies. So they are there. The issue with
2 the Clerk's Office not preparing paper copies is, from the
3 clerk's perspective - that's a - that's a significant expense
4 in a limited budget of 119...

5 CLERK MICHAEL KILLIAN: Mm-hm.

6 ATTORNEY HEATHER YAKELY: ...119.

7 CLERK MICHAEL KILLIAN: Yes.

8 ATTORNEY HEATHER YAKELY: But the file costs associated
9 with preparing paper copies is between \$20,000 and \$25,000 a
10 year. Not - for the materials and for the administrative
11 staff just to put those paper copies together. So the only
12 difference is there isn't this that goes to the Clerk's
13 Office. It's online. And again, I want to stress that in the
14 last two years, there haven't been any complaints about paper
15 copies. In fact, for a period of time, they continued to
16 prepare the paper copies to go to the settlement conferences,
17 etcetera, as is indicated in that - um, in the general rule,
18 but they weren't used. Ah, the Clerk's Office has also - for
19 the past two years - said, "We are going to be fully
20 electronic as of January 1, 2018." So, um, what equipment is
21 necessary? Again, Mr. Killian and the Clerk's Office is - is
22 fully willing to provide any additional equipment as is
23 necessary. But no one has brought to their attention that
24 there is any necessary equipment. Um, for instance, when I
25 was learning about Odyssey, I said, "So what does a - what

1 does a citizen do? Right? What does a taxpayer do when they
2 want to come and - and file something or get a copy?" Well,
3 the equipment's available in the Clerk's Office as well. So
4 in other words, if - if I don't know how to get a paper copy
5 offline as a citizen, they still go to the Clerk's Office.
6 The services are still provided the same. It's just a matter
7 of there's no volume and volume and volume of paper files.
8 Um, the third issue, would mediation be useful? It depends on
9 what question I think you're - you're answering. Mr. Killian
10 from the very beginning has indicated to me that he is more
11 than willing to mediate this. More than willing to try and
12 resolve the issues. The Odyssey issue is you're talking about
13 as - as Mr. (Kammerer) and - and the judges seem to have
14 segued into, the Odyssey issues aren't anything that can be,
15 again, changed. So if you want to talk about problems with
16 Odyssey, then that should include the AOC. That should
17 include the Attorney General and other agencies from around
18 the State. You know, whether that's other Clerk's Offices or
19 - or - or what. But that's not an issue that should be
20 decided by a court if this is truly about Odyssey. And that's
21 - again, from - from the clerk's perspective, that's not what
22 this is about. And that is not at all - I don't know if any
23 of you have actually read the Writ of Mandamus, but this
24 doesn't talk about Odyssey except for one - one time in
25 there. It's about the judges telling the clerks what to do.

1 Which is, again, I'll go back to the Constitutional issue
2 where the Superior Court Clerks in the State of Washington
3 are the only clerks that are not directly under the judges.
4 That was obviously drafted for a reason. And it's
5 Constitutionally provided for. That's why we go back to the
6 first question, which is how much is this going to cost? Now,
7 can a legal issue be mediated? I - I truly believe that if
8 the parties are all willing to try and find a workable
9 solution, any issue can be mediated. An issue of a legal - of
10 the constitutionality of this is different than Odyssey. As I
11 indicated to you moments ago, Odyssey - if Odyssey truly is a
12 problem for the judges - and - and recall, Judge (Scanner)
13 was on the Developing Committee - or the Planning Committee
14 of Odyssey for four years. So if there's truly problems with
15 Odyssey, that's a separate issue to be addressed versus a
16 Constitutional issue. Mr. Killian, again, has indicated his
17 willingness to try and resolve the Writ of Mandamus. That's
18 what this is about. A Writ of Mandamus. If there's a way to
19 do it without investing \$50,000 to \$75,000. So can it be
20 mediated? Who - it doesn't - I don't know if it will be -
21 successfully be mediated. But would a mediation be useful? We
22 believe that it would be. Questions on any of that?

23 COMMISSIONER ROBERT KOCH: So mediation would most likely
24 really cut the cost down quite a bit. What do you expect that
25 would be?

1 ATTORNEY HEATHER YAKELY: A mediation?

2 COMMISSIONER ROBERT KOCH: Yeah.

3 ATTORNEY HEATHER YAKELY: Um, you know, I - I would
4 suggest that we would want to find a - a mediator, um, that
5 both parties agreed to. And mediation fees can run - from -
6 from the mediator's perspective, \$300 to \$500 an hour.

7 COMMISSIONER ROBERT KOCH: Hm.

8 ATTORNEY HEATHER YAKELY: Um, and then you have the
9 attorney fees. So I would say that a mediation can be done
10 for, you know, \$1,500 to \$2,500. Depending on if it's in
11 Seattle...

12 COMMISSIONER ROBERT KOCH: Mm-hm.

13 ATTORNEY HEATHER YAKELY: ...Franklin County, Spokane.
14 You know, it depends. The parties have to obviously agree to
15 that mediator.

16 COMMISSIONER BRAD PECK: So what I heard you say - and of
17 course correct me if I get this wrong - um, that mediation is
18 an option and Mr. Killian is willing to participate.

19 ATTORNEY HEATHER YAKELY: Yes.

20 COMMISSIONER BRAD PECK: But the mediation would not,
21 could not address what you believe is the real question,
22 which is the constitutionality of who directs and whether or
23 not the local court rule is binding on the clerk's actions.
24 And - and if that's the case, then why would we spend a penny
25 on mediation?

1 ATTORNEY HEATHER YAKELY: You - you wouldn't be mediating
2 the actual legal issue, obviously. But is there a point in
3 going to the mediation and trying to get to the root of the
4 issues that started this, and see if there's some other way
5 to resolve the judges' concern? If this is truly about, "We
6 need to have a paper copy," then is there some way to arrive
7 at a compromise? You know, a...

8 COMMISSIONER BRAD PECK: Yeah.

9 ATTORNEY HEATHER YAKELY: ...a six-month period. That's
10 what I'm saying when it may be possible.

11 COMMISSIONER BRAD PECK: Okay. And that's essentially
12 what the Board asked the parties to do between the last
13 meeting.

14 COMMISSIONER ROBERT KOCH: Mm-hm.

15 COMMISSIONER BRAD PECK: ...Mr. Killian was able to
16 attend before he was...

17 ATTORNEY HEATHER YAKELY: Yes

18 COMMISSIONER BRAD PECK: ...overseas and - and now.

19 ATTORNEY HEATHER YAKELY: Agreed. And we were somewhat
20 surprised when, um, I received a copy of the lawsuit.

21 COMMISSIONER BRAD PECK: Okay.

22 COMMISSIONER ROBERT KOCH: How many other counties are
23 using it now, to your knowledge?

24 CLERK MICHAEL KILLIAN: Using Odyssey?

25 COMMISSIONER ROBERT KOCH: Yes. Ah, in the totally

1 paperless...

2 CLERK MICHAEL KILLIAN: All counties are - all coun-
3 well, there's only probably about 12 that are using it
4 paperless right now. That's just because they don't have the
5 staff time or just haven't invested those other costs
6 associated with going completely paperless.

7 COMMISSIONER ROBERT KOCH: So a third of the State right
8 now is?

9 CLERK MICHAEL KILLIAN: Yes. Mm-hm.

10 ATTORNEY HEATHER YAKELY: But - but everybody has to use
11 Odyssey

12 CLERK MICHAEL KILLIAN: Odyssey.

13 ATTORNEY HEATHER YAKELY: It's just that the completely
14 paperless - and - and what he's...

15 COMMISSIONER ROBERT KOCH: Right.

16 ATTORNEY HEATHER YAKELY: ...referring to as the cost is
17 you have to pay somebody to come in and - for instance, in
18 Spokane County where I am from, they have an archive
19 building.

20 COMMISSIONER ROBERT KOCH: Mm-hm.

21 ATTORNEY HEATHER YAKELY: Somebody has to literally go in
22 and scan every single piece of paper in that massive
23 warehouse. So it's just a - that is a huge cost.

24 COMMISSIONER BRAD PECK: You said everybody has to adopt
25 Odyssey. Does everyone have to adopt Odyssey in its

1 electronic finished form? Or is there an option to maintain
2 electronic and paper?

3 CLERK MICHAEL KILLIAN: That's up to the - it - that's up
4 to the clerk...

5 COMMISSIONER BRAD PECK: So it's a local discretion?

6 CLERK MICHAEL KILLIAN: ...in those counties. Right.

7 COMMISSIONER BRAD PECK: Okay. The intent of Odyssey when
8 it was presented to the counties, how was it described? Was
9 it in electronic platform? A, ah, multiple platform where you
10 have paper and electronic?

11 ATTORNEY HEATHER YAKELY: I'm gonna let Mr. Killian
12 answer that, because he's much more familiar...

13 CLERK MICHAEL KILLIAN: Well, for...

14 ATTORNEY HEATHER YAKELY:with all this.

15 CLERK MICHAEL KILLIAN: So for our County, we decided
16 with the Court Administrator and Judge (Spanner) what we
17 would become file-less. Um, and that's where we - that's what
18 we ended up with in 2018. So, again, I...

19 COMMISSIONER BRAD PECK: And - and - and by file-less you
20 meant no paper, all electronic?

21 CLERK MICHAEL KILLIAN: Yes.

22 COMMISSIONER BRAD PECK: Okay. And you - you said Judge
23 (Spanner) was part of that...

24 CLERK MICHAEL KILLIAN: Yes.

25 COMMISSIONER BRAD PECK: ..decision? Was there any

1 agreement or discussion about an implementation date for
2 being paperless?

3 CLERK MICHAEL KILLIAN: I had always indicated that by
4 2018, we would not create a paper file. We created it in '16
5 because we had just gone on Odyssey in November of 2015. So
6 we'd already made those files. Um, 2017, we ordered paper
7 files again because we still had Judge, ah, (Swisher) and
8 (Vanderscore), who were old school. But then they never used
9 the paper files. So they sat on the shelf. So 2018, I'm - I'm
10 not gonna spend taxpayer funds on something that sits on a
11 shelf and just collects dust.

12 COMMISSIONER BRAD PECK: I'm sorry. I thought you said in
13 - in 2016, you indicated to the judges that you were...

14 CLERK MICHAEL KILLIAN: We went - when we went on Odyssey
15 in 2015, I had indicated that our goal was to become
16 paperless - not creating a paper file - by 2018. Yes.

17 COMMISSIONER BRAD PECK: Okay, and did - did anyone
18 object to that...

19 CLERK MICHAEL KILLIAN: No.

20 COMMISSIONER BRAD PECK: ...prior to this discussion?

21 CLERK MICHAEL KILLIAN: Not at all.

22 COMMISSIONER BRAD PECK: Okay.

23 ATTORNEY HEATHER YAKELY: And - and (Pat), the - the
24 Court Administrator signed off on the same document that, um,
25 Mr. Killian signed off.

1 COMMISSIONER BRAD PECK: Okay.

2 CLERK MICHAEL KILLIAN: Indicating that Odyssey is fully
3 functional in Franklin County.

4 COMMISSIONER BRAD PECK: Yeah. Well, ah, yeah, I'm aware
5 that the State AG has kind of looked at this issue. Not
6 directly on point. Now, and I've felt from the beginning
7 that, ah, this probably is a - a question of roles and
8 responsibilities under the Constitution for - for what we
9 call independently elected officials. But...

10 CLERK MICHAEL KILLIAN: Mm-hm.

11 COMMISSIONER BRAD PECK: ...I'm not sure that the
12 independent is really a relevant word. But they're elected
13 officials of the Executive Branch. Just as the judges are
14 elected officials of the Judiciary. Um, and it seems that
15 when we get into that question of roles and responsibilities,
16 that almost immediately rises to the State Supreme Court,
17 which is where I've always thought this probably ought to be.
18 And rather than spend a lot of money to get there, it seemed
19 like a plausible, responsible medium - intermediate ground
20 would be to make a formal request to the State AG's office
21 for an opinion on the - the Constitutional provisions here
22 and see if that doesn't satisfy the questions. But, um, my
23 guess is that you have to have parties that are willing to
24 pursue that solution and continue in the interim in some
25 agreeable fashion.

1 ATTORNEY HEATHER YAKELY: My understanding is that the
2 AG's Office has formally refused to, um, give an opinion on
3 this matter because it is currently in litigation. So in
4 other words, if there was no litigation...

5 COMMISSIONER BRAD PECK: Ah, and - and I should have said
6 that that would necessitate...

7 ATTORNEY HEATHER YAKELY: Yes.

8 COMMISSIONER BRAD PECK: ...um...

9 ATTORNEY HEATHER YAKELY: Yeah.

10 COMMISSIONER BRAD PECK: Yeah, that would necessitate,
11 ah, whatever the correct word is for rescinding or retracting
12 the suit.

13 ATTORNEY HEATHER YAKELY: Yep. They...

14 COMMISSIONER BRAD PECK: Dismissing.

15 ATTORNEY HEATHER YAKELY: They could dismiss the lawsuit.

16 COMMISSIONER BRAD PECK: Sure.

17 ATTORNEY HEATHER YAKELY: And the AG - again, I have not
18 spoken directly with the AG's Office. This is my
19 understanding, but my understanding is if the lawsuit was
20 dismissed, the Attorney General's, ah, Office would - would
21 render an opinion as to this issue. Um, another way to short
22 circuit it is if the judge who was assigned - who is in
23 Kittitas County - they were assigned by the Supreme Court -
24 um, is willing. It's potentially possible to certify this
25 question to the Supreme Court. But understand that this is

1 not a - this isn't a new issue. This is a new approach to an
2 issue between judges and clerks that arises over time. Um,
3 there's - there's some case law about it. Um, Yakima County -
4 okay, so there are some issues which - which have been
5 addressed. Um, and - and the Supreme Court may choose not to
6 and it'll have to wend its way through, which is the \$50,000
7 to \$75,000.

8 COMMISSIONER BRAD PECK: So if I heard you right, even if
9 we were to persuade the AG's Office to take it up outside of
10 litigation and render an opinion, that obviously doesn't stop
11 the parties from still pursuing it in the courts. Just 'cause
12 there's an AG's opinion. That it might temper their thinking
13 about the chances of success. 'Cause they - AG o- AG opinions
14 seem to carry some eight in Washington, but that it wouldn't
15 preclude them from still pursuing it in the courts if they
16 wanted to.

17 ATTORNEY HEATHER YAKELY: I would say that that is an
18 accurate statement. Because AG o- ah, AG opinions are not
19 binding.

20 COMMISSIONER BRAD PECK: Right. They're opinions.

21 ATTORNEY HEATHER YAKELY: Yeah.

22 COMMISSIONER BRAD PECK: Other, ah, questions before we
23 ask Mr. Sant if he has anything to report on this topic?

24 COMMISSIONER ROBERT KOCH: I think that was a good
25 overview.

1 COMMISSIONER BRAD PECK: Thanks for being here.

2 ATTORNEY HEATHER YAKELY: Thank you, Commissioners.

3 COMMISSIONER BRAD PECK: Yes. Mr. Sant, did you want to
4 speak with the Board on this topic?

5 PROSECUTING ATTORNEY SHAWN SANT: Well - ah, g- I think
6 you've addressed, ah, a few matters that I think we've
7 previously discussed, or at least have weighed in on the
8 issues. I - I don't think there's a - a clear cut - looking
9 at it from a strictly legal approach, I don't think this
10 answer is as clear cut from either side's, I guess, position.
11 Because I think it - it does come down to a question of
12 interpretation under the ministerial role that is referenced
13 in the, ah, Recall of (unintelligible) matter where it does
14 discuss, ah, the - the role of the clerk and how that plays
15 out. And it also goes through and discusses the issues of
16 when that function carries into the courtroom. And that -
17 that, I think, is the difference between our case here is
18 that this is a question of the storage and maintaining of
19 files within the - the - the Clerk's Office. But I recognize
20 also the Judge's position is that this - the - the filing
21 issue can extend into, I guess, how justice is served within
22 the courtroom. So I guess in viewing both of those, ah,
23 interests, I think my recollection is the Board had requested
24 that the parties - because I believe it was previously
25 presented that, um - I believe specifically that Mr. Killian

1 wasn't willing to discuss or - or, ah, discuss that matter or
2 have a mediation. It appears that the Board then requested
3 other parties, ah, a few weeks back to provide input of
4 whether or not the parties are willing to - to mediate. Um, I
5 recognize Mr. (Kammerer) has previously addressed the - the
6 Board and indicated that, because of the nature of the legal
7 issue, the way I recall it is that it was presented as
8 there's a rule that was drafted by the judges, and if the
9 clerk is not willing to follow that rule, then that seemed to
10 be an end to the discussion. I think it would suit - looking
11 at for the benefit of Franklin County, ah, a couple options
12 that were discussed, I - I think by, ah, Miss Yakely, ah,
13 today, what I've heard Mr. (Kammerer) indicate, because
14 there's a legal issue, an underlying question of the
15 ultimate, ah, authority of the Court, ah, over the Clerk's
16 Office, or what is the authority of the Court in navigating
17 these type of issues as it affects the courts. What then is a
18 possible remedy? And I think one of the - one of the
19 discussions that Miss Yakely brought up was the mediation. My
20 question is, mediation sometimes doesn't necessarily require
21 an independent mediator in the - in the extent of the -
22 mediation is essentially a negotiation. I believe Mr.
23 (Kammerer) indicated that as well, is that the parties can
24 discuss the implementation. If it was deemed that perhaps,
25 ah, this was not thoroughly fleshed out in time, even though

1 the clerk indicated an intent - and I'm just taking that
2 based on what was presented today. If the clerk had provided
3 an indication that this matter was going to go to a paperless
4 system in 2018, perhaps - and - and I would fault, ah, the
5 judges, who I believe are ultimately responsible for the
6 administration of justice within the court rooms. If there's
7 a feeling or, ah, reservation that they're not quite ready, I
8 think that going back or - ah, at least requiring or
9 requesting that the parties attempt to resolve this immediate
10 issue on implementation, I think that would make sense for -
11 for the parties. I think, obviously, Franklin County's in a
12 situation - ultimately we are here because we were asked to
13 file a lawsuit against ourselves. So short of a lawsuit, one
14 of the options that was suggested is is there a need for
15 additional equipment, additional resources that would provide
16 the access that has been prevented? But I also recognize the
17 underlying issue which is being addressed, which is, ah - ah,
18 who ultimately has authority over this matter or similar
19 matters that may come in the future? And that, I think, is
20 ultimately - as Ms. Yakely had pointed out, as well as Mr.
21 (Kammerer), the ultimate question is do the judges have the
22 authority to - to, ah, have a say and perhaps by passage of
23 local rule, require, ah, particular action of the clerk who
24 serves as a - ah, in a ministerial role. At least that's what
25 is cited. But clearly the clerk is an independent elected

1 official as well. And there's some question as to whether or
2 not the clerk's role falls under Article 4, ah, under the
3 Judiciary or under Article 11, which is more of an Executive
4 role. I think there exists, still, a legitimate legal
5 question that is going to have a significant impact on the
6 entire State. Not just for the clerks, but also, I think, for
7 the Judiciary. Mr. (Kammerer) has cited in some of the
8 references, ah, previously, ah, giving way to prior AGO
9 opinions. That indicates to me that as this Board had
10 discussed, an opinion is just that. It's an opinion. But they
11 can be very persuasive. So one of the options, I guess,
12 before the Board today is to consider whether or not
13 requiring or requesting before consideration funding of a
14 lawsuit against itself, that the parties go back to the
15 table, try to negotiate this particular issue and the
16 implementation of how Odyssey will be implemented, how
17 records will be provi- provided to the Court's satisfaction
18 on this particular issue. But then if - if litigation was
19 going to be withdrawn and the parties agreed that ultimately
20 there's an underlying legal opinion that would be helpful in
21 navigating future issues - not just for our County, but I
22 think throughout the rest of the State, it would make a lot
23 of sense to then, once the litigation is withdrawn, forward
24 this on to the Attorney General's Office. Both parties, I
25 believe both associations - the Judge - Judge's Association

1 as well as what Miss Yakely pointed out is the Clerk's
2 Association, have a clear desire to try to get clarity and
3 understanding, for, I think their respective members. I think
4 judges want to have some clarity of - of their authority. Ah,
5 the clerks, obviously, as, ah, independent elected would like
6 clarification on ultimately what authority do they have in
7 the maintaining of their files. Especially since we're in the
8 transition throughout our state, going to a paperless system.
9 So one of the options that I think I've heard discussed, at
10 least for the Board's consideration, is either send us to a
11 mediation where we hire, pay for a third party, neutral, ah,
12 mediator to try to navigate. I think part of the - the
13 discussions that I've heard or - or considered is that,
14 "Well, a mediator is not going to really weigh in on the
15 particular legal issue, but could help the parties negotiate
16 an immediate resolution on this particular issue." Whether
17 the parties - and I've heard the parties at least indicate a
18 willingness to come back, at least from the clerk's
19 perspective to go back and - and try to negotiate this
20 particular issue. One approach would be to have the parties
21 do that. Report back to the Board if they're able to resolve
22 that matter. I - I think that would be in everybody's best
23 interest. Because we all know - or at least I've seen from my
24 legal experience that if you were trying to resolve a matter
25 of, let's say family law, it's always better for the parties

1 to be able to figure out a resolution amongst themselves
2 rather than go to the court and make your case. Because both
3 parties might not like the answer from a higher court. That
4 is likely going to be the situation here. It could very well
5 be. In other words, the parties are given a unique situation
6 here to discuss, and I guess navigate, a mutually agreed upon
7 resolution with this particular issue where they have both of
8 their interests at the heart. Both of these individuals are
9 responsible to the public, so I think there's a significant
10 interest that would weigh in and encourage the parties to,
11 ah, resolve this matter short of litigation. If the parties
12 do agree with that, ah, approach and try to resolve this
13 immediate resolution, the next step then would be for us to
14 prepare, ah, an - an Attorney General opinion. And I think
15 the - the cost at that point should be born essentially
16 equally. My office would prepare that, obviously, from the
17 standpoint of just putting that question forward. Um, we can
18 cite some of the legal opinions there, but my understanding
19 is probably the Judge's Association as well as the Clerk's
20 Association would weigh in on that. So this would be a
21 heavily weighted, ah, amongst the participants of the State.
22 And it would certainly give Franklin County the opportunity,
23 I guess, of putting a state-wide issue forward and getting
24 the State AG's Office in the position where they would want
25 to weigh in. Because there is a significant impact that this

1 would have. Not that - we're not talking just Franklin
2 County. Clearly we're talking Benton and Franklin Counties
3 because we're a shared judicial district. But I think this
4 has an impact across our entire State. Especially as
5 Odyssey's being implemented. So that would be, ah, a
6 recommendation for consideration if the parties are - are
7 willing to do that. I don't know if Mr. (Kammerer), ah, would
8 be willing to withdraw the current litigation. But that would
9 certainly, ah, be, I think, an approach to at least hearing
10 what the AG opinion is. Because I think, as Miss Yakely
11 pointed out, if this proceeds in Superior Court, one of these
12 parties is not going to be satisfied, probably, with that
13 lower court's decision. The lower court's position is really
14 going to be the position of flushing out what are the facts
15 of this particular case? Once those facts are identified at a
16 lower court level and a decision is made based upon those
17 facts that were presented, the higher court then would review
18 the legal merits. The s- Supreme Court doesn't take
19 testimony, they don't gather the additional facts. They s-
20 typically review what has been argued or presented at the
21 lower court level. So the consideration, I don't think, can
22 be limit...

23 COMMISSIONER BRAD PECK: Excuse me. How do - how do they
24 handle it if, ah, the matter is certified to the Supreme
25 Court and, ah, absent any local trials? It's - could attach -

1 (unintelligible) certifies as a State Supreme Court, there's
2 been no trial. Ah, doesn't it simply become a matter of
3 ruling on the constitutionality and the applicable law? And
4 would that require presentations from both sides and costs?
5 Or would they take that up as simply a matter of interpreting
6 the law?

7 PROSECUTING ATTORNEY SHAWN SANT: I think it would be
8 interpreting the law. But it would be based on the party's
9 submission of declarations or other affidavits so that the
10 court then would be in a position to have to kind of weigh
11 those out. So...

12 COMMISSIONER BRAD PECK: So if we believe that a - an
13 initial trial, ah, in Kittitas would be an almost certain
14 precursor to it going to the Supreme Court, ah, wouldn't it
15 be a less costly approach to simply have it certified to the
16 Supreme Court?

17 PROSECUTING ATTORNEY SHAWN SANT: That's a - I guess if
18 the pri...

19 COMMISSIONER BRAD PECK: If we believe that that's the...

20 PROSECUTING ATTORNEY SHAWN SANT: Yeah.

21 COMMISSIONER BRAD PECK: ...the path?

22 PROSECUTING ATTORNEY SHAWN SANT: I don't know that it'd
23 necessarily be any less costly. Because I think the same
24 materials that you would have to present for the lower court,
25 those materials would then be prepared...

1 COMMISSIONER BRAD PECK: Okay.

2 PROSECUTING ATTORNEY SHAWN SANT: ...and submitted to the
3 Supreme Court. So I think - I think - you would save travel
4 costs, I guess, of the parties if we're talking about the
5 parties, ah...

6 COMMISSIONER BRAD PECK: Sure.

7 PROSECUTING ATTORNEY SHAWN SANT: ...going to Kittitas,
8 or - or elsewhere, or coming down for a hearing. You - those
9 costs would be saved. But certainly, the preparation of, ah,
10 the hearing obviously would be a little bit more expensive
11 for a Supreme Court presentation. But, ah, the - the - the -
12 you - you - I don't think you escape what the ultimate costs
13 - or the initial costs - would be for the lower court. I
14 think that's going to be - that - that would have to be
15 prepared regardless of if it goes to the lower court and goes
16 on to the Supreme Court. So I think that would be included.

17 COMMISSIONER BRAD PECK: Any questions from the Board for
18 Mr. Sant?

19 COMMISSIONER ROBERT KOCH: No, again, good overview of
20 what we're...

21 COMMISSIONER BRAD PECK: So, um, at some point - and
22 somebody or somebody is gonna have to take some leadership in
23 this matter and - and direct it one way or another. So I've
24 got a - a list of points I just want to share. First off is I
25 don't - I don't think this is a Franklin County issue. Ah, in

1 the least. And I'm not excited about the people of Franklin
2 County having to pay to determine for 39 counties in the
3 State what the Constitution says about these respective roles
4 and who gets to decide what. That's - that's not, ah, in our
5 wheelhouse, as they say. And it's not a burden that I think
6 the people of Franklin County ought to have to cover tax-
7 wise. Um, second point, ah - ah, the question is that it's a
8 matter of Constitutional authority and roles and
9 responsibilities. And, Shawn, you and I are both Veterans of
10 the Air Force and we both experienced how critical it is to
11 have clear definition of roles and responsibilities. Ah, in
12 the middle of a - of a battle, you can't be having an
13 argument about whose responsibility it is to go take the hill
14 or whatever it is. This isn't quite as critical or life
15 threatening, but - but the principal still applies is that we
16 need to function within our proper authorities and lanes. And
17 when there's a question about what they are, then we go to a
18 higher authority to determine what - what is the proper role
19 and responsibility. Um, not, ah - I'm not, ah, an attorney,
20 obviously. And the issue of, ah, the Kittitas judge
21 certifying this to the Supreme Court is - is, ah, a concept
22 I'm only vaguely acquainted with, so there might be hiccups
23 in that that I'm not aware of. But it does seem that it may
24 end up being the path. Um - ah, I'm particularly struck by
25 the fact that, ah, the State has adopted Odyssey going to an

1 electronic platform is inevitable. I haven't heard anybody
2 argue against that. The Clerk has been working on it for two
3 or three years and without objection from the judges. And in
4 fact, the - ah, the judges themselves have been active
5 participants in adoption Odyssey. So it strikes me that the -
6 the, ah, issue here is - is not paper, it's not electronic,
7 it's not even timing. It's authority and control. I think we
8 all probably know that. I - I think it would be wise for us
9 to try and separate those two. And either have, ah, an
10 agreement from the Clerk that he'll continue with funding
11 from the Board to provide paper documents for a specified
12 period of time - whether that's three months, six months, a
13 year or whatever it is - to give the courts time to, ah -
14 again, with funding from the Board, probably - to invest in
15 whatever other electronics, equipment - whatever necessary to
16 get us to that, I think, mutually agreed goal, which is an
17 electronic Odyssey platform. Ah, I'd much rather see us spend
18 the money on developing Odyssey into what it is we all agreed
19 we were doing in the first place than spending it on
20 lawsuits. Um, so the - the split that I see is, um, let's -
21 let's broker a local arrangement. And if necessary, ask the
22 Clerk for his indulgence to provide paper copies, ah, a bit
23 longer until we can get Odyssey to a point electronically
24 that satisfies the judges. Obviously they'll need to specify
25 what exactly that looks like. And because they've already

1 signed onto Odyssey and been participants in its development,
2 I think it's a reasonable expectation for them to tell us
3 what it takes to make it acceptable. And then the separate
4 issue of the constitutionality and the roles and
5 responsibilities and whether Mr. (McKillian) - Mr. Killian is
6 or isn't obligated to follow a local court rule in this
7 matter is something that, ah, ideally we could elevate to a
8 State level and not make it a burden on the people of
9 Franklin County. And that's where your legal, ah, expertise
10 would help us. Is how do we make this a State question and
11 not a Franklin County question? Ah, I can see a path for us
12 to deal with the local issue of providing the services that
13 the Court needs. And I'd like to separate that from the
14 constitutional issue and let's - let's battle that out in a
15 separate venue. And let's - let's have it done at the State
16 level. Whether that's, um, the - ah, an association
17 representing the judges and an association representing the
18 clerks and let them take it forward at their expense. But,
19 ah, I just don't see this as a Franklin County issue, that
20 the people of Franklin County ought to be funding a lawsuit
21 against themselves. I'm still open to new information. Um,
22 I'm still, you know, I think, open to the possibility of
23 changing my thinking. But at some point we're not gonna make
24 any progress unless people stand up and say, "This is where I
25 think we're at. And if somebody thinks differently, then

1 persuade us otherwise." Persuade me otherwise. I'm not
2 speaking for the Board. Anybody want to add to that?

3 PROSECUTING ATTORNEY SHAWN SANT: Well, I think - I think
4 that, ah, you know, what you have said, ah, is - is we do it.
5 But we do have the problem still with the - to - the mediator
6 to negotiate with it. And that's where it has to come to -
7 back in their laps. And we gave a couple weeks of that and we
8 haven't got anywhere. So I agree if the - we can get the two
9 together to actually take some time, give it a couple more
10 months, you know? And - ah, and - and, ah, get the judges
11 used to it so that - work together. I think that's the best
12 way rather than having to fund all this. But there's where we
13 - we stop. That's where our problem has been. So if we can
14 get that, I think that will be the way to do it. We've
15 accomplished this (unintelligible). We had it completed.
16 'Cause you're correct. It's not really an accounting issue.
17 It's gonna be the State.

18 COMMISSIONER BRAD PECK: Well, my sense is that if the
19 Clerk were willing to continue to do paper files as a way to
20 help break this gap for a specified period of time, that that
21 would, ah, I think, undo the - the judge's, ah, complaint
22 'cause - and at that point, presumably he would be
23 cooperating with, ah - with their local court rule. Um, it
24 would require, I think, cooperation on both sides and the
25 Clerk's willingness to do that to buy us time to elevate this

1 to the State. Um, and if - if the Clerk were willing to do
2 that I would expect the judges to withdraw their - their
3 legal suit. Um, and again, just speaking for myself, but if
4 the Clerk were willing to do that and the judges were
5 unwilling to withdraw their lawsuit, then I would certainly
6 be unwilling to fund any legal expenses (unintelligible) to
7 pursue that lawsuit. 'Cause I think we've - we've gotta have
8 something here that - that breaks the ice and moves this
9 forward. Otherwise we're all gonna spend a lot of time and
10 money in court that, again, is not, I don't think, a Franklin
11 County issue.

12 COUNTY ADMINISTRATOR KEITH JOHNSON: Do you mind if I ask
13 a question?

14 COMMISSIONER BRAD PECK: Please. Huh, somebody else weigh
15 in.

16 COUNTY ADMINISTRATOR KEITH JOHNSON: Well, in -
17 independent of the Odyssey issue, um - and this is kind of a
18 question for you, Shawn. Are you aware of any other, um,
19 conflict over local rules that the Clerk's Office has been
20 reluctant to implement? Or outside of Odyssey, the - are the
21 judges pushing for an ability to direct the Clerk's Office
22 procedures other than this particular scenario of paperless
23 files and the clerk objects? Does that make sense as a
24 question?

25 PROSECUTING ATTORNEY SHAWN SANT: Ah, yeah, I - I think

1 if I understand what you're asking for is is - is this
2 broader, I guess, than the issue of Odyssey?

3 COUNTY ADMINISTRATOR KEITH JOHNSON: Yes.

4 PROSECUTING ATTORNEY SHAWN SANT: And the paper filings?
5 And that's why I suggested - not - not sure exactly what
6 other - I'm not aware of any other, ah, conflicts or issues,
7 but I could see, I think, from the - the judge's vantage
8 point, ah, a concern of ultimately who has control or
9 authority over related - in this or related issues. And I
10 think that's kind of the question that - from my
11 understanding, I would look at this is if there's a way that
12 the parties can resolve the immediate dispute where both the
13 clerk and the judges are able to negotiate that resolution,
14 then ultimately I think we can satisfy, I think, the interest
15 that the clerks and judges would have. On what authority
16 would the judges have over, ah, local rules or - or other
17 administration that would impact the Clerk's Office. Because
18 let's say we fast forward in time 20 years from now and the
19 whole State is electronic, we're doing electronic files. If a
20 new member comes on the bench and they say, you know, "I'd
21 really like paper. And I want - I want to have paper files
22 prepared," is that then going to be a situation where that
23 would be deemed, you know, a - a lawful act by the judges at
24 that point? If passing a local rule that's gonna now impact
25 the Clerk's Office, who is completely running paperless files

1 and has been doing so for, say, the last 18 years, do we have
2 to go back simply because a local rules is passed? And that -
3 that ultimately I think is the question that reaches the
4 statewide question. Which I think is the - ah, is the concern
5 that the judges have. Is where - where does their authority,
6 ah, lie? Because if they - what they've held out before in
7 presentations to this Board that the administration of
8 justice really falls upon them? The judges - ah - ah, upon
9 me, the Prosecuting Attorney, if I come into court and I'm
10 not in proper attire, as the Court has said that I need to
11 be, then they have authority to not allow me to - to speak
12 and address the case. Ah, so the question really becomes if -
13 where do those rules, ah, and restrictions end? If the Court
14 ultimately is responsible for how justice is administered in
15 their courts - and I think that is their argument - that is
16 ultimately the question, I think, that should be a -
17 presented at the State level. And I think the AGO that the
18 judges have already cited - a previous AGO opinion that was
19 cited in the (Rittle) case. So clearly AGO opinions do carry
20 some weight. And I think this particular issue would have
21 greater meaning and impact. And it wouldn't be born on the
22 cost of solely Franklin County. This would be a State issue.
23 Um, because ultimately, I think that's what would have to be
24 decided.

25 COMMISSIONER BRAD PECK: So the...

1 PROSECUTING ATTORNEY SHAWN SANT: And I think that's
2 where it's going.

3 COMMISSIONER BRAD PECK: I think the AG has made clear
4 that they're not interested in pursuing or issuing an
5 opinion, ah, in the midst of pending litigation. So one, I'm
6 assuming that that requires the...

7 PROSECUTING ATTORNEY SHAWN SANT: That's their policy,
8 yes.

9 COMMISSIONER BRAD PECK: ...the litigation to be
10 dismissed. Um, that could be affected either by the judge -
11 judges agreeing to - to do that in a cooperative spirit
12 while, ah, perhaps a clerk, ah, agrees to voluntarily provide
13 paper files for a bit longer to allow time for an AGO
14 opinion. That - that would be an avenue, but I think we've
15 all realized that it is just that - an opinion. And it's not
16 gonna be binding on either party. And so my question would be
17 what's your degree of confidence that it would end with an AG
18 opinion as opposed to simply delaying the inevitable and us
19 end up spending more money in court? 'Cause ultimately, my
20 objective is - is to serve the needs of the clerk and the
21 judges locally and take this matter that I believe is not a
22 Franklin County matter, get it at the proper level without us
23 being the ones having to elevate it. And frankly, I'm
24 surprised that, in a century and a half of statehood, this
25 hasn't come up.

1 PROSECUTING ATTORNEY SHAWN SANT: So good question. Um,
2 first I look at my duties and responsibilities as captured
3 under the statute. As Prosecuting Attorney, I do not have to
4 bring certain actions, ah, forward. I'm not obligated. Those
5 are permissive, ah - ah - ah, opportunities, should I say,
6 for a prosecutor to weigh in and - and give legal advice.
7 That's what I'm required to do. I'm ret- I'm required to
8 advise Franklin County. I serve the legislative bodies to
9 provide legal advice to the Board. But I also provide legal
10 advice to other departments. If we send this off to a - an
11 attorney general's opinion and that opinion clearly
12 identifies or weighs out the legal options, we would strongly
13 consider that - whether we're taking the case or whatnot -
14 there is no obligation that we have to sue - in particular
15 sue ourselves. But that would give us great cause. If we had
16 an attorney general's opinion that directed one way or the
17 other, whether against the clerk if you call it that or in
18 favor of the judges, then we would be pretty inclined to
19 weigh in on that before considering either action. If the
20 clerk chose - let's just say that it - it came down and it -
21 it sided with the judges, that the judges could make a
22 control of what kind of files are - are held and then there
23 was a request to appeal that decision, we don't necessarily
24 have to take that up. That would be a permissive, ah,
25 authority - ah - ah, of my authority to consider and weigh

1 in. And we do that all the time. Sometimes we have issues for
2 appeal and we have to weigh the costs and merits of taking a
3 matter up on appeal. Does that benefit the County or is it
4 just better to deal with the initial consequences and the
5 initial decision? And we met with - and we move along.

6 COMMISSIONER BRAD PECK: So we have - we have one AG
7 opinion...

8 PROSECUTING ATTORNEY SHAWN SANT: Well, we
9 (unintelligible).

10 COMMISSIONER BRAD PECK: ...already. Is it your position
11 that it's not especially on point? That it's - it's
12 tangential? It's - it's relevant but not directly on point
13 with this question? Because if - if it is on point with this
14 question, then aren't we duplicating our effort?

15 PROSECUTING ATTORNEY SHAWN SANT: I don't believe it's on
16 point. I - I think it gives - ah, it gives some background as
17 to the roles of the respective offices. But I don't think it
18 fleshes out this particular issue because, again, this AGO
19 opinion was cited in the (Rittle) Recall. And I think that is
20 a much different case that you had a - a person that was
21 refusing to, um, file, made - a person that made statements
22 indicating that they were gonna shut down the Court.
23 Obviously that would concern my office as the statement was
24 about, "Hey, you're gonna have to worry about the jails
25 filling up with people 'cause the Prosecuting Attorney will

1 no longer have the ability to bring criminals to justice."
2 That statement alone was then argued on behalf of the clerk
3 as being a First Amendment right that they can say whatever
4 they want. And the clerk - ah, the Court clearly shot that
5 down saying, "That has an impact on the administration of
6 justice." So there's a lot of good information that came from
7 that case. But it doesn't quite reach the level of if the
8 clerks are appearing in court, they're performing their
9 duties and functions in the court, they're taking minutes -
10 albeit electronic or otherwise - then that's my understanding
11 of this particular case - the Clerk's Office is performing
12 all their duties. This is narrowly construed as the medium to
13 which those records and - and files are kept. And there's
14 other statutes that talk about the clerk having...

15 COMMISSIONER BRAD PECK: Yeah.

16 PROSECUTING ATTORNEY SHAWN SANT: ...having the authority
17 of custodian...

18 COMMISSIONER BRAD PECK: Sure.

19 PROSECUTING ATTORNEY SHAWN SANT: ...of those documents.
20 And that's the real issue here, is if the clerk is stated in
21 other RCW stuff, they are the custodian of the documents in
22 that that could actually destroy paper files and convert
23 those to electronic medium so long as it meets certain
24 criteria. That issue, along with some of these other, ah,
25 statutes and authorities, really weigh in on this particular

1 issue of who ultimately would have authority, ah - ah, and
2 control the Court. So I think pursuing that route at least
3 would give us a baseline of where we believe the issue goes.
4 And then we would have to make a decision, ah, at that point
5 in time. But I think that would be hard to justify if the AGO
6 opinion outlines a clear legal authority and they articulate
7 the interest of both of these independent, ah, branches, um,
8 of government, ah, I think that's something that we would
9 certainly have to take. And we would have to advise, then,
10 the Board of what our opinion would be on - ah - ah, if this
11 meets the interest of Franklin County. And pursuing this
12 further - if that's a - ah, if - if - if this - if it did not
13 resolve this immediate question or related questions.

14 COMMISSIONER BRAD PECK: What's the cost of the County of
15 pursuing an AG opinion?

16 PROSECUTING ATTORNEY SHAWN SANT: It's just - my office
17 prepares AG opinions. We've requested that on prior issues
18 and the State took that up. Ah, gar- like, the Bi-County
19 negotiations.

20 COMMISSIONER BRAD PECK: So...

21 PROSECUTING ATTORNEY SHAWN SANT: Bi-County meetings.
22 They - they...

23 COMMISSIONER BRAD PECK: So, Mr. Killian, not - not to
24 put you on the spot and you don't - ah, you certainly don't
25 need to give us an answer today, but, ah, I'd ask if you'd be

1 willing to entertain the notion of continuing to provide, ah,
2 records in the - the form that the judges have requested,
3 which I p- I understand to be, ah, paper and possibly
4 electronic also. I don't know. But would you be willing to
5 entertain the idea of doing that, um...

6 PROSECUTING ATTORNEY SHAWN SANT: Mm-hm.

7 COMMISSIONER BRAD PECK: ...for a period of time long
8 enough to allow us to allow us to get a - an AG opinion with
9 the understanding that - that the Board would provide, ah,
10 whatever financial support and assistance you needed to make
11 that happen? Ah, with o- the obvious understanding that it's
12 not a - an acknowledgement of, you know, who - who prevails
13 in this matter. It's just a, ah, collegial way of buying us
14 time to get an AG opinion and trying to, ah, then have a
15 basis for where we go from there. Speaking for myself, if we
16 were to do that, ah, it would buy us time to make
17 improvements to Odyssey that potentially would satisfy the
18 judge's concern. Ah, we could stop doing paper. Um, and it
19 would, ah - it would also, like I said, give us a basis if -
20 if we got three, four - I don't know how many months it takes
21 for an AG opinion on - on an issue like this, but if we got
22 down the road a few months and got an opinion from the AG,
23 ah, they said that, ah, you know, "This is really a matter
24 for the Supreme Court," then we'd have to re-look at it. If
25 they came back and said, you know, "It's - it's clear that,

1 ah - ah, you know, the, ah, separation of powers between the
2 - the branches does not compel you to - to do the paper
3 files," then I'd be really reluctant - even more than I am
4 now - to fund a suit. And I think, Mr. Sant, that's - that's
5 what you're, ah, hinting at a little bit as well. But the -
6 the key to me - to the whole thing here is, um, buying us
7 some time to see if we can improve Odyssey to the point that
8 the judges are satisfied, minimize the cost of the people of
9 Franklin County, avoid a lawsuit against ourselves and
10 ultimately push this to the State level. And as I prefaced
11 that, obviously we're not gonna put you on the spot for an
12 answer, but also the door is open if - if you want to
13 respond.

14 CLERK MICHAEL KILLIAN: I'm willing to respond. I just
15 want to indicate that the judges haven't asked for paper
16 files since the inception of Odyssey in Franklin County. We
17 work with the judges, indicated that we would print anything
18 they needed for the court or for some of the status
19 conferences since day one. Um, this issue is more about
20 control and power of the Clerk's Office, which we know. But
21 I'm willing to work with the judges and if they would like
22 for me to create paper files for these matters in the
23 interest of the taxpayers, um, interest, I'm willing to - to
24 work and - and do that.

25 COMMISSIONER BRAD PECK: Well, I appreciate that. Um, I -

1 I think everybody in the room shares the concern about
2 avoiding an undue burden on - on the citizens who didn't
3 create this situation. Um, and - and, um, presumably, that
4 would be for, ah, the time it takes us to get an AGO opinion
5 on - on the matter?

6 CLERK MICHAEL KILLIAN: Yes.

7 COMMISSIONER BRAD PECK: Mr. Sant, any - any advice now?

8 PROSECUTING ATTORNEY SHAWN SANT: I - I - I think that
9 kind of takes away quite a bit of the - the earlier
10 discussions we had. It sounds to me that clearly the clerk is
11 - and it - it sounds like has been in a position willing to
12 negotiate this transition, ah, of time, so I obviously
13 appreciate that. And I think the expectation with that'd be
14 on the other side. 'Cause essentially what Mr. Killian has
15 just indicated is a willingness to cooperate in the form of
16 what the judges are seeking ultimately. Even from their local
17 rule, they've identified the intent is to go electronic. And
18 I think what this will now do is, ah, allow the - the parties
19 to come back and I think for Mr. Killian's sake, that if, you
20 know, trying to save, ah, taxpayer funding and everything
21 else with trying to end maintaining paper files as soon as
22 possible, I think that's a strong indication of resolving
23 what I understood from Mr. (Kammerer)'s presentation to this
24 Board previously where he asked for, ah, acceptance at least
25 of this particular issue. And a navigation and - and

1 discussion of how that process would be implemented -
2 implemented from going from paper to electronic. So I - I
3 would find it difficult at this point to fund anything
4 further than for - it seems like that is the bulk of the
5 issue. And I appreciate the clerk and his candor for - for
6 showing that. Because I think that really shows a willingness
7 to try to resolve this ultimate issue. And I think that will,
8 ah, save the taxpayers of Franklin County significant cost.
9 But ultimately it - it, ah, puts us in an opportunity to - to
10 kick this issue down. If that's still an interest to the
11 judges as well as to the clerk, there's really not a cost. We
12 could present that. The judges - ah, they could present that.
13 And then it sounds like the Clerk's Association wants to
14 weigh in on that AGO opinion, they could all submit that
15 without that cost being born on Franklin County.

16 COMMISSIONER BRAD PECK: Sure.

17 PROSECUTING ATTORNEY SHAWN SANT: So I think that's a...

18 COMMISSIONER BRAD PECK: That's where...

19 PROSECUTING ATTORNEY SHAWN SANT: That's a win-win. And I
20 appreciate the - the clerk and his counsel for, ah,
21 articulating their position today and - and, ah, being
22 willing to do that. And I would expect...

23 COMMISSIONER BRAD PECK: So...

24 PROSECUTING ATTORNEY SHAWN SANT: ...the same from Mr.
25 (Kammerer)...

1 COMMISSIONER BRAD PECK: Yeah.

2 PROSECUTING ATTORNEY SHAWN SANT: ...and the judges to
3 recognize that's a pretty huge concession and...

4 COMMISSIONER BRAD PECK: Sure.

5 PROSECUTING ATTORNEY SHAWN SANT: ...willingness to
6 resolve this issue.

7 COMMISSIONER BRAD PECK: So let me - let me ask the
8 Board, ah, given, ah, Mr. (Killian)'s, ah, offer, um, do we
9 have - or let me - let me put it differently. I - I would
10 request consensus from the Board that we have Mr. Sant, ah,
11 speak with, ah, Mr. (Kammerer) and, ah, indicate, ah, clerk's
12 willingness to accommodate the judges during the time
13 necessary for us to secure an AGO opinion and ask them - have
14 Mr. Sant ask Mr. (Kammerer) on behalf of the Board if they
15 would withdraw their pending legal action. And, ah, that
16 would avoid the cost and burden on the people of Franklin
17 County, it would serve the needs of the Court in the interim.
18 And then we can all take a breath while we wait to see what
19 the AGO opinion says. Is there...

20 COMMISSIONER ROBERT KOCH: I think that's a good path
21 forward at this point.

22 COMMISSIONER BRAD PECK: We're good with that?

23 COUNTY ADMINISTRATOR KEITH JOHNSON: Well, I think that's
24 the easy fix.

25 COMMISSIONER ROBERT KOCH: Appreciate, ah...

1 COUNTY ADMINISTRATOR KEITH JOHNSON: Yeah.

2 COMMISSIONER ROBERT KOCH: ...Mike and his office to step
3 up to that and...

4 CLERK MICHAEL KILLIAN: And you - you know, I agree it's
5 - it's way (unintelligible). And I would appreciate that,
6 too. Now we just gotta get the other side to work with it and
7 - and I definitely think that you should, ah, relay the
8 message.

9 PROSECUTING ATTORNEY SHAWN SANT: Well, my...

10 CLERK MICHAEL KILLIAN: Ah, sure.

11 COMMISSIONER BRAD PECK: Okay.

12 PROSECUTING ATTORNEY SHAWN SANT: And my understanding
13 was that that's what the Board had essentially asked of the
14 parties is being willing to...

15 COMMISSIONER BRAD PECK: Right.

16 PROSECUTING ATTORNEY SHAWN SANT: ...negotiate. And it
17 sounds like this is...

18 COMMISSIONER BRAD PECK: Right.

19 PROSECUTING ATTORNEY SHAWN SANT: ...r- answered that
20 question.

21 COMMISSIONER ROBERT KOCH: Half of it.

22 PROSECUTING ATTORNEY SHAWN SANT: Yeah. It answered that
23 question.

24 COMMISSIONER BRAD PECK: Well - well, we've - we've
25 received an - an offer outside of any kind of mediation.

1 PROSECUTING ATTORNEY SHAWN SANT: Right.

2 COMMISSIONER BRAD PECK: And, ah, should the judges be
3 inclined to, ah, pursue the litigation irrespective of Mr.
4 Killian's offer, ah, what is the feeling of the Board? Would
5 you entertain funding with that lawsuit against ourselves at
6 that time? Or would you, based on Mr. Killian's offer, ah,
7 prefer to decline?

8 COUNTY ADMINISTRATOR KEITH JOHNSON: Ah, I would have to
9 decline any kind of a - a subsidy, ah, if they aren't willing
10 to work.

11 COMMISSIONER ROBERT KOCH: I guess I don't understand
12 your question.

13 COMMISSIONER BRAD PECK: Well, the - the clerk has
14 offered to - to accommodate the Court's needs while we're
15 pursuing an AGO opinion.

16 COMMISSIONER ROBERT KOCH: Mm-hm.

17 COMMISSIONER BRAD PECK: And if the judges are, ah,
18 unwilling in the face of that offer, to withdraw or dismiss
19 our legal action and still want us to fund that legal action,
20 ah, would the board be inclined to approve funding for that
21 or decline funding?

22 COMMISSIONER ROBERT KOCH: I - I would - I think we would
23 decline and - and have them work with, ah - with it in the
24 simplest...

25 COMMISSIONER BRAD PECK: Okay. So I - I...

1 COMMISSIONER ROBERT KOCH: ...logical way.

2 COMMISSIONER BRAD PECK: ...anticipated that that would
3 be the consensus...

4 COMMISSIONER ROBERT KOCH: Yes.

5 COMMISSIONER BRAD PECK: ...of the Board, but I wanted
6 to...

7 COMMISSIONER ROBERT KOCH: Yes.

8 COMMISSIONER BRAD PECK: ...walk through that so that
9 when you're talking to the judges, you have some context for
10 where we're at. And, um, so this clearly doesn't take a
11 position by the Board of who we think is right or wrong
12 because...

13 COMMISSIONER ROBERT KOCH: Ah, right.

14 COMMISSIONER BRAD PECK: ...as I said, I don't think it's
15 a Franklin County issue and I don't think that we're
16 qualified sitting up here to - to make that call. Nor - nor
17 do we want to. Ah, but this does buy us the time without
18 burdening taxpayers to get an AGO opinion and see where that
19 takes us. And - and if it doesn't conclusively answer the
20 question, I think it at least, ah, makes the path ahead with
21 any legal actions a lot more clear.

22 PROSECUTING ATTORNEY SHAWN SANT: Thank you.

23 COMMISSIONER ROBERT KOCH: Mm-hm.

24 COMMISSIONER BRAD PECK: Mr. Killian, I just want to
25 extend my personal thanks as well. Um, I think all of us do

1 our best to keep in mind for whom we work and what their
2 interests and concerns are and what they would say if they
3 were sitting here and, ah...

4 CLERK MICHAEL KILLIAN: Right.

5 COMMISSIONER BRAD PECK: ...so I appreciate you looking
6 at it that way. Okay.

7 COMMISSIONER ROBERT KOCH: Thank you.

8 CLERK MICHAEL KILLIAN: I don't think there's any other
9 business for me.

10 COMMISSIONER BRAD PECK: Okay. Thanks, much.

11 CLERK MICHAEL KILLIAN: Thank you.

12 ATTORNEY HEATHER YAKELY: It's been a pleasure, guys.

13 COMMISSIONER BRAD PECK: Okay. Well, I feel about 20
14 minutes older than this, ah, agenda. Which is fitting, since
15 the next item is, ah, proclamation on Older Americans Month.
16 Um, is that - here it is. I don't want anybody to take this
17 the wrong way, but I'm gonna give this to Commissioner Koch
18 because he's - because he is the Chair Pro Tem and it would
19 be proper...

20 COMMISSIONER ROBERT KOCH: Yeah.

21 COMMISSIONER BRAD PECK: ...and fitting for - for him..

22 COMMISSIONER ROBERT KOCH: And...

23 COMMISSIONER BRAD PECK: I didn't say and. I said because
24 he is the Chair Pro Tem.

25 COMMISSIONER ROBERT KOCH: Um, you have a proclamation in

1 front of us for, ah, May of 2018, Older Americans Month.
2 Whereas Franklin County is a community that includes a
3 community of 1,155 older Americans that deserve recognition
4 of their contributions to our nation, whereas Franklin
5 County, Washington recognizes that older adults are
6 trailblazers advocating for themselves, their peers and their
7 communities, paving the way for future generations. And
8 whereas Franklin County, Washington is committed to raising
9 awareness about issues facing other Americans and helping all
10 individuals to thrive in communities of their choice for as
11 long as possible. Whereas, we appreciate the value of
12 inclusion and support in helping older adults successfully
13 contribute to and benefit from their communities. And whereas
14 our community can provide opportunities to enrich lives and
15 individuals of all ages by first promoting and engaging in -
16 in activities, wellness and social involvement, emphasizing
17 home and community based services and support, independent
18 living, ensure community members can benefit from
19 contributions and the experience of older adults. Now,
20 therefore, the Board of County Commissioners of Franklin
21 County, Washington do hereby proclaim May 20, '18 to be Older
22 Americans Month and urges every resident to take time this
23 month to acknowledge older adults and the people who serve
24 them as powerful and vital individuals who greatly contribute
25 to our community. Dated this eighth day of May of 2018.

1 COUNTY ADMINISTRATOR KEITH JOHNSON: Okay. So we have the
2 proclamation. I just want to make correction. I'm the Chair
3 Pro Tem, but he is the oldest, so I think that was fitting.

4 COMMISSIONER ROBERT KOCH: Yeah. Yeah.

5 COUNTY ADMINISTRATOR KEITH JOHNSON: So, ah...

6 COMMISSIONER BRAD PECK: You know, I was sitting up here
7 going, "Surely..."

8 COMMISSIONER ROBERT KOCH: Yeah.

9 COMMISSIONER BRAD PECK: ...somebody is gonna realize
10 that - that he's not the Chair Pro Tem.

11 COUNTY ADMINISTRATOR KEITH JOHNSON: It worked. Um, so
12 was that a motion? Or just document...

13 COMMISSIONER ROBERT KOCH: Yes.

14 COUNTY ADMINISTRATOR KEITH JOHNSON: Okay. Then I'll
15 second.

16 COMMISSIONER BRAD PECK: I - yeah, I know you're the
17 Chair Pro Tem. I'm not sure you're old enough to - to second.

18 COMMISSIONER ROBERT KOCH: Yeah.

19 COMMISSIONER BRAD PECK: Okay, so we have a motion and a
20 second for approval of, ah, the proclamation in recognition
21 of May, 2018 as Older Americans Month. Anybody wish to, ah,
22 comment further? You're not even gonna touch it, are you? Can
23 anybody tell me what qualifies you in the older American
24 category? I just want to know if I'm there yet.

25 COUNTY ADMINISTRATOR KEITH JOHNSON: 55 and older some

1 places. And...

2 COMMISSIONER BRAD PECK: Oh.

3 COUNTY ADMINISTRATOR KEITH JOHNSON: ...62 in some places
4 and - it depends. If you go to IHOP, it's 55 and older.

5 COMMISSIONER BRAD PECK: IHOP, huh? Fif...

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

1
2
3
4
5
6
7
8

I, the undersigned, do hereby certify under penalty of perjury that this transcript is a true and accurate copy of the hearing tapes that were obtained from the Clerk to the Board of County Commissioners for Franklin County.

Signed



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BOARD OF COMMISSIONER'S MEETING

May 22, 2018

In Re The Appointment of a Special Deputy Prosecuting

Attorney

18-2-50522-11

Present at Meeting

Commissioner Brad Peck

Commissioner Robert Koch

County Administrator Keith Johnson

Prosecuting Attorney Shawn Sant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

May 22, 2018

COUNTY ADMINISTRATOR KEITH JOHNSON: Please - um, yeah. Just yesterday we received a letter from (Dale Kamerrer) who is the counsel who was hired by the judge to represent them in their, uh, (unintelligible) action the county clerk. Uh, we've had a couple discussions (unintelligible). Um, the response in the letter received just yesterday indicates Mr. (Hemmer)'s decision that the attorney general's opinion is inadequate to remedy their - their question.

COMMISSIONER BRAD PECK: Okay.

COUNTY ADMINISTRATOR KEITH JOHNSON: So they have not as of yet reached to withdraw their - their litigation and, uh, Mr. (Warden) prepare to ask, you know...

COMMISSIONER BRAD PECK: Mr. Sant or (unintelligible) have any questions that are present in the audience? Uh...

COMMISSIONER ROBERT KOCH: Mr. (Kamerrer) indicate, uh, method of payment the judges intend to use to pay for counsel?

COUNTY ADMINISTRATOR KEITH JOHNSON: He did not.

COMMISSIONER ROBERT KOCH: I just thought I'd ask. It seemed like an obvious question. Um...

COMMISSIONER BRAD PECK: I think they're afraid of the - the AD's opinion.

1 COMMISSIONER ROBERT KOCH: Well...

2 COMMISSIONER BRAD PECK: My first (unintelligible)
3 anyway.

4 COMMISSIONER ROBERT KOCH: Yeah, okay. Well the board's
5 had, I think, a pretty good discussion and we've - we've made
6 a decision and, um, unless board member wants to reopen it
7 for discussion or wants us to consider a different path than
8 we're presently on, certainly that opportunity is now. But
9 okay.

10 COMMISSIONER BRAD PECK: Yeah.

11 COMMISSIONER ROBERT KOCH: Thanks for the update. Mr.
12 Sant you hear anything you wanna add or...

13 PROSECUTING ATTORNEY SHAWN SANT: No.

14 COMMISSIONER ROBERT KOCH: Okay.

15 COUNTY ADMINISTRATOR KEITH JOHNSON: We did have other
16 business, though.

17 COMMISSIONER ROBERT KOCH: You do? Okay, um...

18 COUNTY ADMINISTRATOR KEITH JOHNSON: (Unintelligible).

19 COMMISSIONER ROBERT KOCH: Okay, anything else under
20 administration and office business?

21 COUNTY ADMINISTRATOR KEITH JOHNSON: No.

22 COMMISSIONER ROBERT KOCH: Okay, so we've, uh, done a
23 call for public comment. That brings us to an executive
24 session request under RCW4231101I which is potential
25 litigation. And, uh, Mr. (Johnson), uh, who shall we invite

1 to...

2 COUNTY ADMINISTRATOR KEITH JOHNSON: Yes, I would like
3 to, uh, include certain (unintelligible) myself, clerk of the
4 board, prosecuting attorney and the chief civil deputy.

5 COMMISSIONER ROBERT KOCH: Are you anticipating a need
6 for any action following this executive session? Related to
7 the executive session?

8 COUNTY ADMINISTRATOR KEITH JOHNSON: Possibly.

9 COMMISSIONER ROBERT KOCH: Possibly? Okay, and are you
10 anticipating any other business before the board other than
11 this executive session?

12 COUNTY ADMINISTRATOR KEITH JOHNSON: No,
13 (unintelligible).

14 COMMISSIONER ROBERT KOCH: Okay, I just do that in case
15 there are other folks who wanna get back to whatever they
16 would be doing otherwise. Um, all right. Well then with that,
17 it's, uh - we'll call it 9:30 for the start of the executive
18 session. And how much time do we think we need?

19 COUNTY ADMINISTRATOR KEITH JOHNSON: Approximately 20
20 minutes.

21 COMMISSIONER ROBERT KOCH: Okay.

22 COUNTY ADMINISTRATOR KEITH JOHNSON: Possibly
23 (unintelligible).

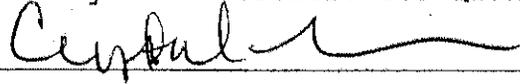
24 COMMISSIONER ROBERT KOCH: Okay, make that up to 20.

25

CERTIFICATE

1
2
3
4
5
6
7
8

I, the undersigned, do hereby certify under penalty of perjury that this transcript is a true and accurate copy of the hearing tapes that were obtained from the Clerk to the Board of County Commissioners for Franklin County.

Signed 

APPENDIX C

Franklin County Superior Court Local General Rule 3

APPENDIX C

Local General Rule 3

FILES AND "PAPERLESS COURT"

(a) The clerks of Benton and Franklin Counties shall keep and maintain paper files for all cases and file types, by forthwith filing all pleadings and papers in paper files, except as may be otherwise authorized in writing by the Court.

(b) The clerks of Benton and Franklin Counties shall make up-to-date paper files for all cases and case types available to the Court, as directed by its judicial officers.

(c) While paperless courts are preferable, they should only be implemented after careful consideration of the impacts upon the Court, the legal community and the public, and only after case management systems have been configured so all of their capabilities are realized. Accordingly, neither clerk shall attempt or purport to operate with "paperless" processes unless and until the same has been approved in writing by the court. Permission will not be granted unless the Court is satisfied that appropriate workflows and work queues have been implemented, that equipment and processes have been acquired and developed to facilitate electronic signatures, and that the paperless processes do not adversely affect the Court's ability to conduct court proceedings and other court functions. As directed by the Court, the Clerks shall work diligently, collaboratively and harmoniously with the Court to satisfy all of the conditions precedent to "paperless" court, as set forth above. In so doing, the clerks shall conform to the direction of the Court.

(d) Pursuant to GR7(e) this rule shall become effective immediately upon filing the same with the Washington Administrative Office of the Courts.

APPENDIX E

Declarations of Ruby Ochoa, Connie Rhoads, Diana Vera,
Jill Gray, Joyce Ritter, Kay Morin, Maricela Elizondo,
Melyssa Leavitt, Michael Killian, Nicole Cruz, Sara Gore,
Sherise Roderick, Gail Johnston, and Amy Finke

6. This action, or any reference to the Matter In Re The Appointment of a Special Deputy Prosecuting Attorney, was not presented and did not come before the Court during any proceeding I attended and clerked on May 22, 2018.

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

SIGNED at Pasco, Washington, this ^{24th}~~27~~ day of May, 2018



NICOLE CRUZ, Deputy Clerk

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
MONDAY, MAY 21, 2018**

BENTON COUNTY:

JUDGE SPANNER				
COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
Jury Assembly Rm:	8:45	JURY INDOCTRINATION		Theresa
COURTROOM B:	8:30	ST V. NELSON, 17-1-00480-8 (Continuance)	Katie	Theresa
<i>Jury Panel @ 8:00am</i>	8:30	STATE V. MILLER, 15-1-00519-1 (Jury Trial, 3 Days - P/S to 5/29 at 9:00am)	Katie	Theresa
<i>Jury Panel in @ 10:00am</i>	1:15	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
JUDGE SPANNER				
COURTROOM C:	1:15	PRELIMS	Renee	Kerry
	1:30	IN RE GENESIS INVESTMENTS AND SERVICES, 17-2-01071-2 (Non-Jury Trial, 1/2 Day w/AM Read Time)	Rence	Kerry
JUDGE RUNGE				
Jury Assembly Rm:	10:00	JURY INDOCTRINATION		Staci
COURTROOM D:	1:30	IN RE: RAMIREZ		TCM
	3:30	IN RE: RAMIREZ, 18-7-00002-1, 18-7-00003-9, 18-7-00004-7 (Pre-Trial Termination)	Digital	TCM
COMMISSIONER STAM				
Chambers:		GMP CASE REVIEW		

BENTON/FRANKLIN COUNTIES JUVENILE:

COURTROOM #1:	1:30	CRIMINAL DOCKET	Digital	TCM
	2:30	IN RE: BAGLEY, 18-7-50175-11 (Contested At-Risk)	Digital	TCM

FRANKLIN COUNTY:

COMMISSIONER PETERSON				
COURTROOM #1: <i>Spanish Interpreter - Sylvia Garza</i>	8:30	DOMESTIC DOCKET	Digital	Lew
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	1:30	ADOPTION DOCKET	Digital	Lew
	1:30	DOMESTIC / DVP DOCKET	Digital	Lew
JUDGE MITCHELL				
Chambers #2:	9:00	CIVIL STATUS CONFERENCES		
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	11:00	LOPEZ V. CHAVEZ, 17-2-50193-11 (Entry, 1/2 Hour)	Digital	Lew
COURTROOM #1:	1:00	IN RE: RAMIREZ		Lew
	1:30	PRELIMS (Spanish Interpreter @ Jail - Sylvia)	Joe	Lew
COMMISSIONER STAM				
COURTROOM #1:	2:30	CIVIL DOCKET	Joe	Lew
JUDGE SHEA-BROWN				
Lourdes Counseling Ctr:	8:15			
Jury Room #1:	9:00	CIVIL SETTLEMENT / PRETRIAL CONF'S		
JUDGE PRO TEM LEDGERWOOD				
Jury Room #1:	2:00	DOMESTIC SETTLEMENT CONFERENCES		
MAIL: Nicole Joyce				
OUT OF OFFICE: Judge Runge (8-9am), Judge Shea-Brown (PM -business), Brian, Tiffany, Pat (11-1)				

sg
ml
ml
ml
-
km
km
sk
km
sg

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
TUESDAY, MAY 22, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
COURTROOM B: <i>Jury Panel in @ 10:00am</i>	9:00	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
COURTROOM C:	8:15	DOMESTIC DOCKET - OVERTENS	Digital	Theresa
	1:30	DOMESTIC DOCKET - PM	Digital	Theresa
JUDGE SPANNER				
<i>Lourdes Counseling Ctr:</i>	8:15	MENTAL HEALTH HEARINGS (2 Benton, 1 Franklin)		
COURTROOM D:	1:30	EX PARTE DOCKET		TCM
COMMISSIONER PETERSON				
COURTROOM E: <i>Spanish Interpreter - Sylvia Garza</i>	8:15	DOMESTIC STATUS	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	10:30	PATERNITY DOCKET	Digital	Kerry
	1:15	CONTEMPT DOCKET	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	1:30	STATE / PRO SE DOCKET	Digital	Kerry
JUDGE RUNGE				
COURTROOM F:	9:00	STATE V. HAYES, 17-8-000291-6 (Non Jury Trial, 1 Day)	Digital	TCM
	1:15	PRELIMS	Michelle	TCM

sg

BENTON/FRANKLIN COUNTIES JUVENILE:

nc

COURTROOM #1:	8:30	DEPENDENCY DOCKET	Digital	TCM
	1:30	DEPENDENCY DOCKET	Digital	TCM

nc

FRANKLIN COUNTY:

JUDGE BURROWS				
COURTROOM #3:	8:30	CRIMINAL DOCKET	Nicole	Lew
JUDGE SHEV BROWN				
COURTROOM #1:	1:00	CRIMINAL DOCKET		Lew
COURTROOM #3:	1:30	CRIMINAL DOCKET	Joe	Lew

ME

TZ ME

Keyyl Diana for Yazmin

MAIL
OUT OF OFFICE: Brian

FILED
FRANKLIN CO CLERK

2018 MAY 22 PM 3:32

MICHAEL J. KILLIAN

BY *JK* DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A
SPECIAL DEPUTY PROSECUTING
ATTORNEY

18 250522 11

ORDER OF APPOINTMENT

This matter came before the above-entitled Court for consideration of the appointment of a Special Deputy Prosecuting Attorney for Franklin County, pursuant to RCW 36.27.030. The Court makes the following Findings of Fact related thereto:

1. In relation to the action entitled *The Judges of the Benton and Franklin Counties Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-brown, Judge Bruce Spanner and Judge Sam Swanberg, Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court, Defendants*, Franklin County Superior Court No. 18-2-50285-11, as contemplated by RCW 36.27.030, the Prosecuting Attorney of Franklin County is unable to discharge the duties of his office due to a disability arising from the requirements and limitations of Rules of Professional Conduct, Rule 1.7; and

2. The Attorney General of the State of Washington has declined to represent the plaintiffs in the action referred to above; and

3. W. Dale Kamerrer, WSBA #8218, is a duly admitted and practicing attorney-at-law and resident of the State of Washington, and is qualified to discharge the duties of the Prosecuting Attorney of Franklin County in relation to the above-referenced action, and has been performing the duties of the attorney for the plaintiffs in said action pursuant to

ORDER OF APPOINTMENT - 1

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

SCANNED

1 appointment by the Franklin County Prosecuting Attorney to serve as a Special Deputy
2 Prosecutor; and

3 4. Mr. Kamerrer shall receive such reasonable compensation for the professional
4 services he renders to the plaintiffs as may be fixed and ordered by the court to be paid by
5 Franklin County.

6 Based upon the foregoing Findings of Fact, it is now hereby Ordered:

7 1. W. Dale Kamerrer is hereby Appointed as a Special Deputy Prosecuting Attorney
8 to represent the plaintiffs in the action identified above.

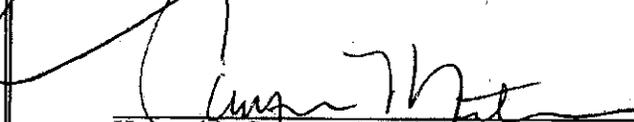
9 2. Payment of compensation for the professional services rendered shall be subject
10 to further order of the court.

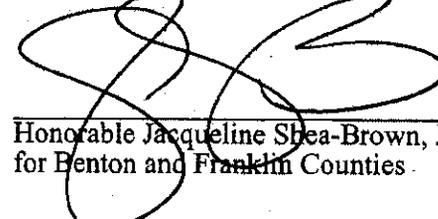
11 Dated this 21st day of May 2018.

12 
13 _____
14 Honorable Alex Ekstrom, Administrative Presiding Judge,
15 Judge of the Superior Court for Benton and Franklin Counties

16 
17 _____
18 Honorable Bruce Spanner, Assistant Administrative Presiding Judge,
19 Judge of the Superior Court for Benton and Franklin Counties

20 
21 _____
22 Honorable Joseph Burrowes, Judge of the Superior Court
23 for Benton and Franklin Counties

24 
25 _____
26 Honorable Cameron Mitchell, Judge of the Superior Court
for Benton and Franklin Counties



Honorable Jacqueline Shea-Brown, Judge of the Superior Court
for Benton and Franklin Counties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Carrie Runge
Honorable Carrie Runge, Judge of the Superior Court
for Benton and Franklin Counties

[Signature]
Honorable Samuel Swanberg, Judge of the Superior Court
for Benton and Franklin Counties

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A SPECIAL
DEPUTY PROSECUTING ATTORNEY

)
)
)
)
)
NO. 18-2-50522-11

DECLARATION OF MARICELA ELIZONDO

I, Maricela Elizondo, Superior Court Deputy Clerk for Franklin County, declare as follows:

1. I am competent to testify in all respects, and make this declaration from my personal knowledge.
2. In my capacity as Deputy Clerk, I have been appointed by the Franklin County Clerk and Clerk of the Superior Court, Michael J. Killian and perform the duties of my position on his behalf and at his direction.
3. Attached hereto as exhibits are true and correct copies of the Benton and Franklin Counties Superior Court Daily Schedule for Monday, May 21, 2018 and Tuesday, May 22, 2018, evidencing all Superior Court proceedings in Benton and Franklin Counties; and Order of Appointment, executed on Monday, May 21, 2018 by all of the Judges of the Superior Court for Benton and Franklin Counties.
4. On Monday, May 21, 2018, I was not assigned to any courtroom proceedings.
5. On Tuesday, May 22, 2018, I was assigned to, personally attended and clerked the Franklin County morning Criminal Docket with the Honorable Judge Burrows presiding and the Franklin County afternoon Criminal Docket with the Honorable Judge Shea-Brown presiding.
6. This action, or any reference to the Matter In Re The Appointment of a Special Deputy Prosecuting Attorney, was not presented and did not come before the Court during any proceeding I attended and clerked on May 22, 2018.

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

SIGNED at Pasco, Washington, this 5 day of June, 2018



MARICELA ELIZONDO, Deputy Clerk

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
MONDAY, MAY 21, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
Jury Assembly Rm:	8:45	JURY INDOCTRINATION		Theresa
COURTROOM B:	8:30	ST V. NELSON, 17-1-00480-8 (Continuance)	Katie	Theresa
<i>Jury Panel @ 8:00am</i>	8:30	STATE V. MILLER, 15-1-00519-1 (Jury Trial, 3 Days - P/S to 5/29 at 9:00am)	Katie	Theresa
<i>Jury Panel in @ 10:00am</i>	1:15	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
JUDGE SPANNER				
COURTROOM C:	1:15	PRELIMS	Renee	Kerry
	1:30	IN RE GENESIS INVESTMENTS AND SERVICES, 17-2-01071-2 (Non-Jury Trial, 1/2 Day w/AM Read Time)	Renee	Kerry
JUDGE RING				
Jury Assembly Rm:	10:00	JURY INDOCTRINATION		Staci
COURTROOM D:	1:30			TCM
	3:30	IN RE: RAMIREZ, 18-7-00002-1, 18-7-00003-9, 18-7-00004-7 (Pre-Trial Termination)	Digital	TCM
Chambers:		GMP CASE REVIEW		

BENTON/FRANKLIN COUNTIES JUVENILE:

COURTROOM #1:	1:30	CRIMINAL DOCKET	Digital	TCM
	2:30	IN RE: BAGLEY, 18-7-50175-11 (Contested At-Risk)	Digital	TCM

FRANKLIN COUNTY:

COMMISSIONER PETERSON				
COURTROOM #1: <i>Spanish Interpreter - Sylvia Garza</i>	8:30	DOMESTIC DOCKET	Digital	Lew
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	1:30	ADOPTION DOCKET	Digital	Lew
	1:30	DOMESTIC / DVP DOCKET	Digital	Lew
JUDGE MICHIELE				
Chambers #2:	9:00	CIVIL STATUS CONFERENCES		
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	11:00	LOPEZ V. CHAVEZ, 17-2-50193-11 (Entry, 1/2 Hour)	Digital	Lew
COURTROOM #1:	1:00			Lew
	1:30	PRELIMS (Spanish Interpreter @ Jail - Sylvia)	Joe	Lew
COURTROOM #1:	2:30	CIVIL DOCKET	Joe	Lew
JUDGE SHAW-BROWN				
Laurens Counseling Ctr:	8:15			
Jury Room #1:	9:00	CIVIL SETTLEMENT / PRETRIAL CONF'S		
JUDGE PRO TEM LEDGERWOOD				
Jury Room #1:	2:00	DOMESTIC SETTLEMENT CONFERENCES		
MAIL:	<i>Nicole Joyce</i>			
OUT OF OFFICE: Judge Runge (8-9am), Judge Shaw-Brown (PM - business), Brian, Tiffany, Pat (11-1)				

sg
ml
ml
ml
km
km
sk
km
sg

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
TUESDAY, MAY 22, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	BSTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
COURTROOM B: <i>Jury Panel in @ 10:00am</i>	9:00	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
COURTROOM C:	8:15	DOMESTIC DOCKET - OVERTENS	Digital	Theresa
	1:30	DOMESTIC DOCKET - PM	Digital	Theresa
JUDGE SPANNER				
<i>Learda Counseling Ctr:</i>	8:15	MENTAL HEALTH HEARINGS (2 Benton, 1 Franklin)		
COURTROOM D:	1:30	EX PARTE DOCKET		TCM
COMMISSIONER PETERSON				
COURTROOM E: <i>Spanish Interpreter - Sylvia Garza</i>	8:15	DOMESTIC STATUS	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	10:30	PATERNITY DOCKET	Digital	Kerry
	1:15	CONTEMPT DOCKET	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	1:30	STATE / PRO SE DOCKET	Digital	Kerry
JUDGE RENO				
COURTROOM F:	9:00	STATE V. HAYES, 17-8-000291-6 (Non Jury Trial, 1 Day)	Digital	TCM
	1:15	PRELIMS	Michelle	TCM

BENTON/FRANKLIN COUNTIES JUVENILE:

~ NC

COURTROOM #1:	8:30	DEPENDENCY DOCKET	Digital	TCM
	1:30	DEPENDENCY DOCKET	Digital	TCM

NC

FRANKLIN COUNTY:

JUDGE BURROWS				
COURTROOM #3:	8:30	CRIMINAL DOCKET	Nicole	Lew
JUDGE SHEA BROWN				
COURTROOM #1:	1:00			Lew
COURTROOM #3:	1:30	CRIMINAL DOCKET	Joe	Lew

ME

TZ
ME

Keyyl Diana for Yazmin

MAIL:

OUT OF OFFICE: Brian

FILED
FRANKLIN CO CLERK

2018 MAY 22 PM 3:32

MICHAEL J. KILLIAN

BY *JK* DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A
SPECIAL DEPUTY PROSECUTING
ATTORNEY

18 250522 11
ORDER OF APPOINTMENT

This matter came before the above-entitled Court for consideration of the appointment of a Special Deputy Prosecuting Attorney for Franklin County, pursuant to RCW 36.27.030. The Court makes the following Findings of Fact related thereto:

1. In relation to the action entitled *The Judges of the Benton and Franklin Counties Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-brown, Judge Bruce Spanner and Judge Sam Swanberg, Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court, Defendants*, Franklin County Superior Court No. 18-2-50285-11, as contemplated by RCW 36.27.030, the Prosecuting Attorney of Franklin County is unable to discharge the duties of his office due to a disability arising from the requirements and limitations of Rules of Professional Conduct, Rule 1.7; and

2. The Attorney General of the State of Washington has declined to represent the plaintiffs in the action referred to above; and

3. W. Dale Kamerrer, WSBA #8218, is a duly admitted and practicing attorney-at-law and resident of the State of Washington, and is qualified to discharge the duties of the Prosecuting Attorney of Franklin County in relation to the above-referenced action, and has been performing the duties of the attorney for the plaintiffs in said action pursuant to

ORDER OF APPOINTMENT - 1

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

SCANNED

1 appointment by the Franklin County Prosecuting Attorney to serve as a Special Deputy
2 Prosecutor; and

3 4. Mr. Kamerrer shall receive such reasonable compensation for the professional
4 services he renders to the plaintiffs as may be fixed and ordered by the court to be paid by
5 Franklin County.

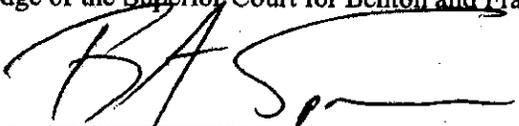
6 Based upon the foregoing Findings of Fact, it is now hereby Ordered:

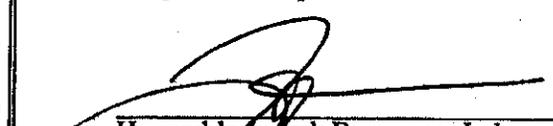
7 1. W. Dale Kamerrer is hereby Appointed as a Special Deputy Prosecuting Attorney
8 to represent the plaintiffs in the action identified above.

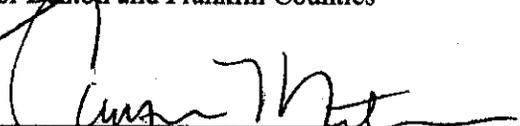
9 2. Payment of compensation for the professional services rendered shall be subject
10 to further order of the court.

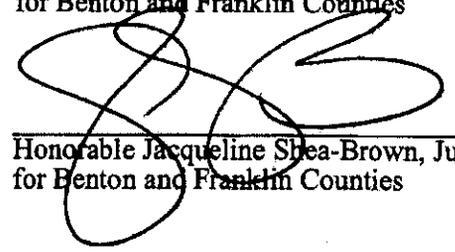
11 Dated this 21st day of May 2018.

12 
13 _____
14 Honorable Alex Ekstrom, Administrative Presiding Judge,
15 Judge of the Superior Court for Benton and Franklin Counties

16 
17 _____
18 Honorable Bruce Spanner, Assistant Administrative Presiding Judge,
19 Judge of the Superior Court for Benton and Franklin Counties

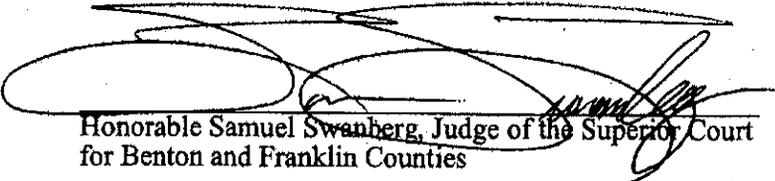
20 
21 _____
22 Honorable Joseph Burrowes, Judge of the Superior Court
23 for Benton and Franklin Counties

24 
25 _____
26 Honorable Cameron Mitchell, Judge of the Superior Court
for Benton and Franklin Counties



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Carrie Runge
Honorable Carrie Runge, Judge of the Superior Court
for Benton and Franklin Counties


Honorable Samuel Swanberg, Judge of the Superior Court
for Benton and Franklin Counties

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A SPECIAL
DEPUTY PROSECUTING ATTORNEY

)
)
)
)
)

NO. 18-2-50522-11

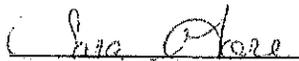
DECLARATION OF SARA GORE

I, Sara Gore, Superior Court Deputy Clerk for Franklin County, declare as follows:

1. I am competent to testify in all respects, and make this declaration from my personal knowledge.
2. In my capacity as Deputy Clerk, I have been appointed by the Franklin County Clerk and Clerk of the Superior Court, Michael J. Killian and perform the duties of my position on his behalf and at his direction.
3. Attached hereto as exhibits are true and correct copies of the Benton and Franklin Counties Superior Court Daily Schedule for Monday, May 21, 2018 and Tuesday, May 22, 2018, evidencing all Superior Court proceedings in Benton and Franklin Counties; and Order of Appointment, executed on Monday, May 21, 2018 by all of the Judges of the Superior Court for Benton and Franklin Counties.
4. On Monday, May 21, 2018, I was assigned to, personally attended and clerked the Mental Health Hearing Docket with the Honorable Judge Shea-Brown presiding; and the Contested At-Risk hearing In Re: Bagley with the Honorable Commissioner Potts presiding.
5. On Tuesday, May 22, 2018, I was assigned to, personally attended and clerked the Mental Health Hearing Docket with the Honorable Judge Spanner presiding.
6. This action, or any reference to the Matter In Re The Appointment of a Special Deputy Prosecuting Attorney, was not presented and did not come before the Court during any proceeding I attended and clerked on May 21, 2018 or May 22, 2018.

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

SIGNED at Pasco, Washington, this 2nd day of June, 2018


SARA GORE, Deputy Clerk

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
MONDAY, MAY 21, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
Jury Assembly Rm:	8:45	JURY INDOCTRINATION		Theresa
COURTROOM B:	8:30	ST V. NELSON, 17-1-00480-8 (Continuance)	Katie	Theresa
<i>Jury Panel @ 8:00am</i>	8:30	STATE V. MILLER, 15-1-00519-1 (Jury Trial, 3 Days - P/S to 5/29 at 9:00am)	Katie	Theresa
<i>Jury Panel In @ 10:00am</i>	1:15	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
JUDGE SPANNER				
COURTROOM C:	1:15	PRELIMS	Renee	Kerry
	1:30	IN RE GENESIS INVESTMENTS AND SERVICES, 17-2-01071-2 (Non-Jury Trial, 1/2 Day w/AM Read Time)	Renee	Kerry
JUDGE RUNGE				
Jury Assembly Rm:	10:00	JURY INDOCTRINATION		Staci
COURTROOM D:	1:30	IN RE: RAMIREZ		TCM
	3:30	IN RE: RAMIREZ, 18-7-00002-1, 18-7-00003-9, 18-7-00004-7 (Pre-Trial Termination)	Digital	TCM
COMMISSIONER STAM				
Chambers:		GMP CASE REVIEW		

BENTON/FRANKLIN COUNTIES JUVENILE:

COURTROOM #1:	1:30	CRIMINAL DOCKET	Digital	TCM
	2:30	IN RE: BAGLEY, 18-7-50175-11 (Contested At-Risk)	Digital	TCM

FRANKLIN COUNTY:

COMMISSIONER PETERSON				
COURTROOM #1: <i>Spanish Interpreter - Sylvia Garza</i>	8:30	DOMESTIC DOCKET	Digital	Lew
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	1:30	ADOPTION DOCKET	Digital	Lew
<i>Spanish Interpreter - Sylvia Garza</i>	1:30	DOMESTIC / DVP DOCKET	Digital	Lew
JUDGE MITCHELL				
Chambers #2:	9:00	CIVIL STATUS CONFERENCES		
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	11:00	LOPEZ V. CHAVEZ, 17-2-50193-11 (Entry, 1/2 Hour)	Digital	Lew
COURTROOM #1:	1:00	PRELIMS		Lew
	1:30	PRELIMS (Spanish Interpreter @ Jail - Sylvia)	Joe	Lew
COMMISSIONER STAM				
COURTROOM #1:	2:30	CIVIL DOCKET	Joe	Lew
JUDGE SHEA-BROWN				
Lourdes Counseling Ctr:	8:15			
Jury Room #1:	9:00	CIVIL SETTLEMENT / PRETRIAL CONF'S		
JUDGE PRO TEM LEDGERWOOD				
Jury Room #1:	2:00	DOMESTIC SETTLEMENT CONFERENCES		
MAIL: <i>Alcote Joyce</i>				
OUT OF OFFICE: Judge Runge (8-9am), Judge Shea-Brown (PM - business), Brian, Tiffany, Pat (11-1)				

sg
ml
ml
ml
km
km
sk
km
sg

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
TUESDAY, MAY 22, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
COURTROOM B: <i>Jury Panel in @ 10:00am</i>	9:00	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
COURTROOM C:	8:15	DOMESTIC DOCKET - OVERTENS	Digital	Theresa
	1:30	DOMESTIC DOCKET - PM	Digital	Theresa
JUDGE SPANNER				
<i>Lourdes Counseling Ctr:</i>	8:15	MENTAL HEALTH HEARINGS (2 Benton, 1 Franklin)		
COURTROOM D:	1:30	EX PARTE DOCKET		TCM
COMMISSIONER PETERSON				
COURTROOM E: <i>Spanish Interpreter - Sylvia Garza</i>	8:15	DOMESTIC STATUS	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	10:30	PATERNITY DOCKET	Digital	Kerry
	1:15	CONTEMPT DOCKET	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	1:30	STATE / PRO SE DOCKET	Digital	Kerry
JUDGE RUNGE				
COURTROOM F:	9:00	STATE V. HAYES, 17-8-000291-6 (Non Jury Trial, 1 Day)	Digital	TCM
	1:15	PRELIMS	Michelle	TCM

BENTON/FRANKLIN COUNTIES JUVENILE: *nc*

COURTROOM #1:	8:30	DEPENDENCY DOCKET	Digital	TCM
	1:30	DEPENDENCY DOCKET	Digital	TCM

FRANKLIN COUNTY:

JUDGE BURROWES				
COURTROOM #3:	8:30	CRIMINAL DOCKET	Nicole	Lew
JUDGE SHEA-BROWN				
COURTROOM #1:	1:00	CRIMINAL DOCKET		Lew
COURTROOM #3:	1:30	CRIMINAL DOCKET	Joe	Lew

Kayl Diana for Yazmin

MAIL

OUT OF OFFICE: Brian

sg

nc

ME

JZ ME

FILED
FRANKLIN CO CLERK

2018 MAY 22 PM 3:32

MICHAEL J. KILLIAN

BY *JK* DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A
SPECIAL DEPUTY PROSECUTING
ATTORNEY

18 250522 11

ORDER OF APPOINTMENT

This matter came before the above-entitled Court for consideration of the appointment of a Special Deputy Prosecuting Attorney for Franklin County, pursuant to RCW 36.27.030. The Court makes the following Findings of Fact related thereto:

1. In relation to the action entitled *The Judges of the Benton and Franklin Counties Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-brown, Judge Bruce Spanner and Judge Sam Swanberg, Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court, Defendants*, Franklin County Superior Court No. 18-2-50285-11, as contemplated by RCW 36.27.030, the Prosecuting Attorney of Franklin County is unable to discharge the duties of his office due to a disability arising from the requirements and limitations of Rules of Professional Conduct, Rule 1.7; and

2. The Attorney General of the State of Washington has declined to represent the plaintiffs in the action referred to above; and

3. W. Dale Kamerrer, WSBA #8218, is a duly admitted and practicing attorney-at-law and resident of the State of Washington, and is qualified to discharge the duties of the Prosecuting Attorney of Franklin County in relation to the above-referenced action, and has been performing the duties of the attorney for the plaintiffs in said action pursuant to

ORDER OF APPOINTMENT - 1

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-2511

SCANNED

1 appointment by the Franklin County Prosecuting Attorney to serve as a Special Deputy
2 Prosecutor; and

3 4. Mr. Kamerrer shall receive such reasonable compensation for the professional
4 services he renders to the plaintiffs as may be fixed and ordered by the court to be paid by
5 Franklin County.

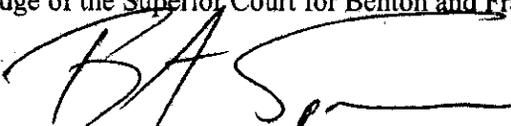
6 Based upon the foregoing Findings of Fact, it is now hereby Ordered:

7 1. W. Dale Kamerrer is hereby Appointed as a Special Deputy Prosecuting Attorney
8 to represent the plaintiffs in the action identified above.

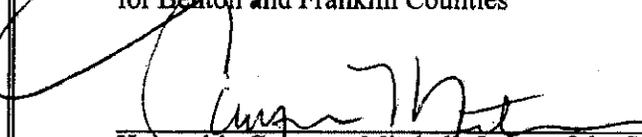
9 2. Payment of compensation for the professional services rendered shall be subject
10 to further order of the court.

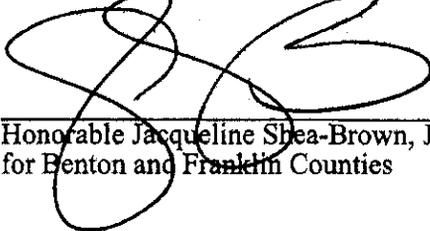
11 Dated this 21st day of May 2018.

12 
13 _____
14 Honorable Alex Ekstrom, Administrative Presiding Judge,
15 Judge of the Superior Court for Benton and Franklin Counties

16 
17 _____
18 Honorable Bruce Spanner, Assistant Administrative Presiding Judge,
19 Judge of the Superior Court for Benton and Franklin Counties

20 
21 _____
22 Honorable Joseph Burrowes, Judge of the Superior Court
23 for Benton and Franklin Counties

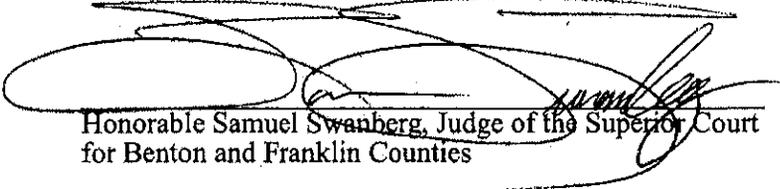
24 
25 _____
26 Honorable Cameron Mitchell, Judge of the Superior Court
for Benton and Franklin Counties



Honorable Jacqueline Shea-Brown, Judge of the Superior Court
for Benton and Franklin Counties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Carrie Runge
Honorable Carrie Runge, Judge of the Superior Court
for Benton and Franklin Counties


Honorable Samuel Swanberg, Judge of the Superior Court
for Benton and Franklin Counties

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A SPECIAL
DEPUTY PROSECUTING ATTORNEY

)
)
)
)
)

NO. 18-2-50522-11

DECLARATION OF JILL GRAY

I, Jill Gray, Superior Court Deputy Clerk for Franklin County, declare as follows:

1. I am competent to testify in all respects, and make this declaration from my personal knowledge.
2. In my capacity as Deputy Clerk, I have been appointed by the Franklin County Clerk and Clerk of the Superior Court, Michael J. Killian and perform the duties of my position on his behalf and at his direction.
3. Attached hereto as exhibits are true and correct copies of the Benton and Franklin Counties Superior Court Daily Schedule for Monday, May 21, 2018 and Tuesday, May 22, 2018, evidencing all Superior Court proceedings in Benton and Franklin Counties; and Order of Appointment, executed on Monday, May 21, 2018 by all of the Judges of the Superior Court for Benton and Franklin Counties.
4. On Monday, May 21, 2018 and Tuesday, May 22, 2018, I was present for work in the Franklin County Clerk's Office; however, I was not assigned to any courtroom proceedings.
5. To the best of my knowledge, this action, or any reference to the Matter In Re The Appointment of a Special Deputy Prosecuting Attorney, was not presented and did not come before the Court during any proceeding held in Franklin County.

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

SIGNED at Pasco, Washington, this 5 day of June, 2018



JILL GRAY, Deputy Clerk

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
MONDAY, MAY 21, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
Jury Assembly Rm:	8:45	JURY INDOCTRINATION		Theresa
COURTROOM B:	8:30	ST V. NELSON, 17-1-00480-8 (Continuance)	Katie	Theresa
Jury Panel @ 8:00am	8:30	STATE V. MILLER, 15-1-00519-1 (Jury Trial, 3 Days - P/S to 5/29 at 9:00am)	Katie	Theresa
Jury Panel in @ 10:00am	1:15	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
JUDGE SPANNER				
COURTROOM C:	1:15	PRELIMS	Renee	Kerry
	1:30	IN RE GENESIS INVESTMENTS AND SERVICES, 17-2-01071-2 (Non-Jury Trial, 1/2 Day w/AM Read Time)	Renee	Kerry
JUDGE BRENDEL				
Jury Assembly Rm:	10:00	JURY INDOCTRINATION		Staci
COURTROOM D:	1:30		Digital	TCM
	3:30	IN RE: RAMIREZ, 18-7-00002-1, 18-7-00003-9, 18-7-00004-7 (Pre-Trial Termination)	Digital	TCM
Chambers:		GMP CASE REVIEW		

BENTON/FRANKLIN COUNTIES JUVENILE:

COURTROOM #1:	1:30	CRIMINAL DOCKET	Digital	TCM
	2:30	IN RE: BAGLEY, 18-7-50175-11 (Contested At-Risk)	Digital	TCM

FRANKLIN COUNTY:

COMMISSIONER PETERSON				
COURTROOM #1: <i>Spanish Interpreter - Sylvia Garza</i>	8:30	DOMESTIC DOCKET	Digital	Lew
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	1:30	ADOPTION DOCKET	Digital	Lew
	1:30	DOMESTIC / DVP DOCKET	Digital	Lew
JUDGE NICHOLSON				
Chambers #2:	9:00	CIVIL STATUS CONFERENCES		
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	11:00	LOPEZ V. CHAVEZ, 17-2-50193-11 (Entry, 1/2 Hour)	Digital	Lew
COURTROOM #1:	1:00			Lew
	1:30	PRELIMS (Spanish Interpreter @ Jail - Sylvia)	Joe	Lew
COURTROOM #1:	2:30	CIVIL DOCKET	Joe	Lew
JUDGE STEVEN BROWN				
Jury Room #1:	9:00	CIVIL SETTLEMENT / PRETRIAL CONF'S		
JUDGE PRO TEM LEDGERWOOD				
Jury Room #1:	2:00	DOMESTIC SETTLEMENT CONFERENCES		
MAIL:	<i>Nicole Joyce</i>			
OUT OF OFFICE: Judge Runge (8-9am), Judge Shea Brown (PM -business), Brian, Tiffany, Pat (11-1)				

sq
ml
ml
ml
km
km
sk
km
sq

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
TUESDAY, MAY 22, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
COURTROOM B: <i>Jury Panel In @ 10:00am</i>	9:00	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
COURTROOM C:	8:15	DOMESTIC DOCKET - OVERTENS	Digital	Theresa
	1:30	DOMESTIC DOCKET - PM	Digital	Theresa
JUDGE SPANNER				
<i>Lawrence Counseling Ctr.</i>	8:15	MENTAL HEALTH HEARINGS (2 Benton, 1 Franklin)		
COURTROOM D:	1:30	EK PARTE DOCKET		TCM
CONNIE SMITH HESSON				
COURTROOM E: <i>Spanish Interpreter - Sylvia Garza</i>	8:15	DOMESTIC STATUS	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	10:30	PATERNITY DOCKET	Digital	Kerry
	1:15	CONTEMPT DOCKET	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	1:30	STATE / PRO SE DOCKET	Digital	Kerry
DEBORAH NEEL				
COURTROOM F:	9:00	STATE V. HAYES, 17-8-000291-6 (Non Jury Trial, 1 Day)	Digital	TCM
	1:15	PRELIMS	Michelle	TCM

sg

BENTON/FRANKLIN COUNTIES JUVENILE: ~ NC

COURTROOM #1:	8:30	DEPENDENCY DOCKET	Digital	TCM
	1:30	DEPENDENCY DOCKET	Digital	TCM

FRANKLIN COUNTY:

JUDGE BURROWS				
COURTROOM #2:	8:30	CRIMINAL DOCKET	Nicole	Lew
JUDGE SHEA BROWN				
COURTROOM #1:	1:00			Lew
COURTROOM #3:	1:30	CRIMINAL DOCKET	Joe	Lew

Kayl Diana for Vazymen

*nc
nc
ME
T2
ME*

MAIL:
OUT OF OFFICE: Brian

FILED
FRANKLIN CO CLERK

2018 MAY 22 PM 3:32

MICHAEL J. KILLIAN

BY *JK* DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A
SPECIAL DEPUTY PROSECUTING
ATTORNEY

18 250522 11
ORDER OF APPOINTMENT

This matter came before the above-entitled Court for consideration of the appointment of a Special Deputy Prosecuting Attorney for Franklin County, pursuant to RCW 36.27.030. The Court makes the following Findings of Fact related thereto:

1. In relation to the action entitled *The Judges of the Benton and Franklin Counties Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-brown, Judge Bruce Spanner and Judge Sam Swanberg, Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court, Defendants*, Franklin County Superior Court No. 18-2-50285-11, as contemplated by RCW 36.27.030, the Prosecuting Attorney of Franklin County is unable to discharge the duties of his office due to a disability arising from the requirements and limitations of Rules of Professional Conduct, Rule 1.7; and

2. The Attorney General of the State of Washington has declined to represent the plaintiffs in the action referred to above; and

3. W. Dale Kamerrer, WSBA #8218, is a duly admitted and practicing attorney-at-law and resident of the State of Washington, and is qualified to discharge the duties of the Prosecuting Attorney of Franklin County in relation to the above-referenced action, and has been performing the duties of the attorney for the plaintiffs in said action pursuant to

ORDER OF APPOINTMENT - 1

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

SCANNED

1 appointment by the Franklin County Prosecuting Attorney to serve as a Special Deputy
2 Prosecutor; and

3 4. Mr. Kamerrer shall receive such reasonable compensation for the professional
4 services he renders to the plaintiffs as may be fixed and ordered by the court to be paid by
5 Franklin County.

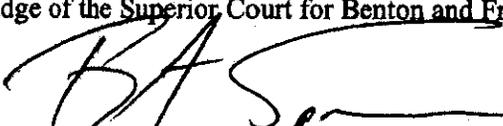
6 Based upon the foregoing Findings of Fact, it is now hereby Ordered:

7 1. W. Dale Kamerrer is hereby Appointed as a Special Deputy Prosecuting Attorney
8 to represent the plaintiffs in the action identified above.

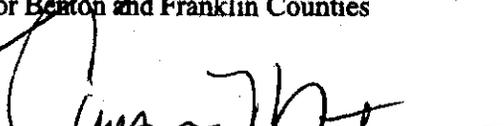
9 2. Payment of compensation for the professional services rendered shall be subject
10 to further order of the court.

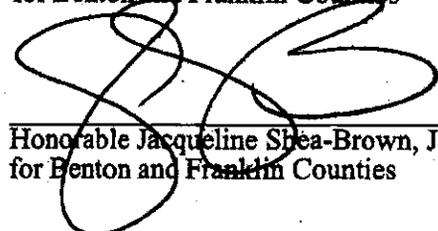
11 Dated this 21st day of May 2018.

12
13 
14 Honorable Alex Ekstrom, Administrative Presiding Judge,
Judge of the Superior Court for Benton and Franklin Counties

15
16 
17 Honorable Bruce Spanner, Assistant Administrative Presiding Judge,
Judge of the Superior Court for Benton and Franklin Counties

18
19 
20 Honorable Joseph Burrowes, Judge of the Superior Court
for Benton and Franklin Counties

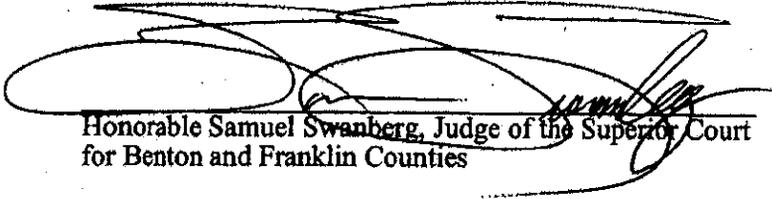
21
22 
23 Honorable Cameron Mitchell, Judge of the Superior Court
for Benton and Franklin Counties

24
25 
26 Honorable Jacqueline Shea-Brown, Judge of the Superior Court
for Benton and Franklin Counties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Carrie Runge

Honorable Carrie Runge, Judge of the Superior Court
for Benton and Franklin Counties


Honorable Samuel Swanberg, Judge of the Superior Court
for Benton and Franklin Counties

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A SPECIAL
DEPUTY PROSECUTING ATTORNEY

)
)
)
)
)

NO. 18-2-50522-11

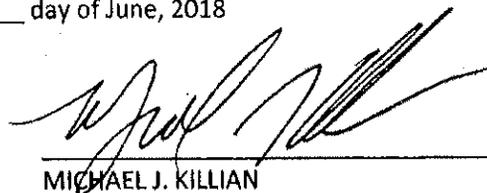
DECLARATION OF MICHAEL J. KILLIAN

I, Michael J. Killian, Franklin County Clerk and Clerk of the Superior Court, declares as follows:

1. I am competent to testify in all respects, and make this declaration from my personal knowledge.
2. I am an independently elected public official serving Franklin County as the County Clerk and Superior Court Clerk.
3. Attached hereto as exhibits are true and correct copies of the Benton and Franklin Counties Superior Court Daily Schedule for Monday, May 21, 2018 and Tuesday, May 22, 2018, evidencing all Superior Court proceedings in Benton and Franklin Counties; and Order of Appointment, executed on Monday, May 21, 2018 by all of the Judges of the Superior Court for Benton and Franklin Counties.
4. On Monday, May 21, 2018 and Tuesday, May 22, 2018, I was present for work in the Franklin County Clerk's Office; however, I was not in attendance in any courtroom proceedings.
5. To the best of my knowledge, this action, or any reference to the Matter In Re The Appointment of a Special Deputy Prosecuting Attorney, was not presented and did not come before the Court during any proceeding held in Franklin County.
6. On Tuesday, May 22, 2018 at approximately 3:30 p.m. the Superior Court Administrator, Patricia Austin, presented in our office with the attached Order of Appointment. At no time did Ms. Austin indicate to either myself or my Chief Deputy, Ruby A. Ochoa, of the content or significance of the document.

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

SIGNED at Pasco, Washington, this 5 day of June, 2018

A handwritten signature in black ink, appearing to read "Michael J. Killian", written over a horizontal line.

MICHAEL J. KILLIAN
Franklin County Clerk and Clerk of the Superior Court

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
MONDAY, MAY 21, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
Jury Assembly Rm:	8:45	JURY INDOCTRINATION		Theresa
COURTROOM B:	8:30	ST V. NELSON, 17-1-00480-8 (Continuance)	Katie	Theresa
<i>Jury Panel @ 8:00am</i>	8:30	STATE V. MILLER, 15-1-00519-1 (Jury Trial, 3 Days - P/S to 5/29 at 9:00am)	Katie	Theresa
<i>Jury Panel in @ 10:00am</i>	1:15	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
JUDGE SPANNER				
COURTROOM C:	1:15	PRELIMS	Renee	Kerry
	1:30	IN RE GENESIS INVESTMENTS AND SERVICES, 17-2-01071-2 (Non-Jury Trial, 1/2 Day w/AM Read Time)	Renee	Kerry
JUDGE RINGE				
Jury Assembly Rm:	10:00	JURY INDOCTRINATION		Staci
COURTROOM D:	1:30			TCM
	3:30	IN RE: RAMIREZ, 18-7-00002-1, 18-7-00003-9, 18-7-00004-7 (Pre-Trial Termination)	Digital	TCM
Chambers:		GMP CASE REVIEW		

BENTON/FRANKLIN COUNTIES JUVENILE:

COURTROOM #1:	1:30	CRIMINAL DOCKET	Digital	TCM
	2:30	IN RE: BAGLEY, 18-7-50175-11 (Contested At-Risk)	Digital	TCM

FRANKLIN COUNTY:

COMMISSIONER PETERSON				
COURTROOM #1: <i>Spanish Interpreter - Sylvia Garza</i>	8:30	DOMESTIC DOCKET	Digital	Lew
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	1:30	ADOPTION DOCKET	Digital	Lew
<i>Spanish Interpreter - Sylvia Garza</i>	1:30	DOMESTIC / DVP DOCKET	Digital	Lew
JUDGE MITCHELL				
Chambers #2:	9:00	CIVIL STATUS CONFERENCES		
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	11:00	LOPEZ V. CHAVEZ, 17-2-50193-11 (Entry, 1/2 Hour)	Digital	Lew
COURTROOM #1:	1:00			Lew
	1:30	PRELIMS (Spanish Interpreter @ Jail - Sylvia)	Joe	Lew
COURTROOM #1:	2:30	CIVIL DOCKET	Joe	Lew
JUDGE SHEA-BROWN				
Lawyer's Counseling Ctr:	8:15			
Jury Room #1:	9:00	CIVIL SETTLEMENT / PRETRIAL CONF'S		
JUDGE PRO TEM LEDGERWOOD				
Jury Room #1:	2:00	DOMESTIC SETTLEMENT CONFERENCES		
MAIL:				
OUT OF OFFICE: Judge Runge (8-9am), Judge Shea-Brown (PM -business), Brian, Tiffany, Pat (11-1)				

sq
ml
ml
ml
km
km
sk
km
sq

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
TUESDAY, MAY 22, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
COURTROOM B: <i>Jury Panel in @ 10:00am</i>	9:00	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
COURTROOM C:	8:15	DOMESTIC DOCKET - OVERTENS	Digital	Theresa
	1:30	DOMESTIC DOCKET - PM	Digital	Theresa
JUDGE SPANNER				
<i> Lourdes Counseling Ctr:</i>	8:15	MENTAL HEALTH HEARINGS (2 Benton, 1 Franklin)		
COURTROOM D:	1:30	EX PARTE DOCKET		TCM
COMMISSIONER PETERSON				
COURTROOM E: <i>Spanish Interpreter - Sylvia Garza</i>	8:15	DOMESTIC STATUS	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	10:30	PATERNITY DOCKET	Digital	Kerry
	1:15	CONTEMPT DOCKET	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	1:30	STATE / PRO SE DOCKET	Digital	Kerry
JUDGE RENCE				
COURTROOM F:	9:00	STATE V. HAYES, 17-8-000291-6 (Non Jury Trial, 1 Day)	Digital	TCM
	1:15	PRELIMS	Michelle	TCM

BENTON/FRANKLIN COUNTIES JUVENILE: ~ nc

COURTROOM #1:	8:30	DEPENDENCY DOCKET	Digital	TCM
	1:30	DEPENDENCY DOCKET	Digital	TCM

FRANKLIN COUNTY:

JUDGE BURROWS				
COURTROOM #2:	8:30	CRIMINAL DOCKET	Nicole	Lew
JUDGE SILVA-BROWN				
COURTROOM #1:	1:00			Lew
COURTROOM #3:	1:30	CRIMINAL DOCKET	Joe	Lew

Keyyl Diana for Yazmin

MAIL:
OUT OF OFFICE: Brian

sg

nc

ME

TZ ME

FILED
FRANKLIN CO CLERK
2018 MAY 22 PM 3:32

MICHAEL J. KILLIAN

BY *JK* DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A
SPECIAL DEPUTY PROSECUTING
ATTORNEY

18 250522 11
ORDER OF APPOINTMENT

This matter came before the above-entitled Court for consideration of the appointment of a Special Deputy Prosecuting Attorney for Franklin County, pursuant to RCW 36.27.030. The Court makes the following Findings of Fact related thereto:

1. In relation to the action entitled *The Judges of the Benton and Franklin Counties Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-brown, Judge Bruce Spanner and Judge Sam Swanberg, Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court, Defendants*, Franklin County Superior Court No. 18-2-50285-11, as contemplated by RCW 36.27.030, the Prosecuting Attorney of Franklin County is unable to discharge the duties of his office due to a disability arising from the requirements and limitations of Rules of Professional Conduct, Rule 1.7; and

2. The Attorney General of the State of Washington has declined to represent the plaintiffs in the action referred to above; and

3. W. Dale Kamerrer, WSBA #8218, is a duly admitted and practicing attorney-at-law and resident of the State of Washington, and is qualified to discharge the duties of the Prosecuting Attorney of Franklin County in relation to the above-referenced action, and has been performing the duties of the attorney for the plaintiffs in said action pursuant to

ORDER OF APPOINTMENT - 1

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

SCANNED

1 appointment by the Franklin County Prosecuting Attorney to serve as a Special Deputy
2 Prosecutor; and

3 4. Mr. Kamerrer shall receive such reasonable compensation for the professional
4 services he renders to the plaintiffs as may be fixed and ordered by the court to be paid by
5 Franklin County.

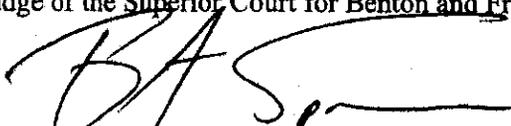
6 Based upon the foregoing Findings of Fact, it is now hereby Ordered:

7 1. W. Dale Kamerrer is hereby Appointed as a Special Deputy Prosecuting Attorney
8 to represent the plaintiffs in the action identified above.

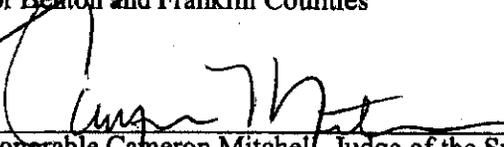
9 2. Payment of compensation for the professional services rendered shall be subject
10 to further order of the court.

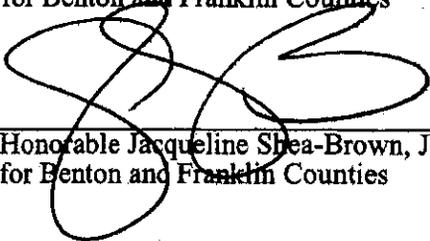
11 Dated this 21st day of May 2018.

12
13 
14 Honorable Alex Ekstrom, Administrative Presiding Judge,
Judge of the Superior Court for Benton and Franklin Counties

15
16 
17 Honorable Bruce Spanner, Assistant Administrative Presiding Judge,
Judge of the Superior Court for Benton and Franklin Counties

18
19 
20 Honorable Joseph Burrowes, Judge of the Superior Court
for Benton and Franklin Counties

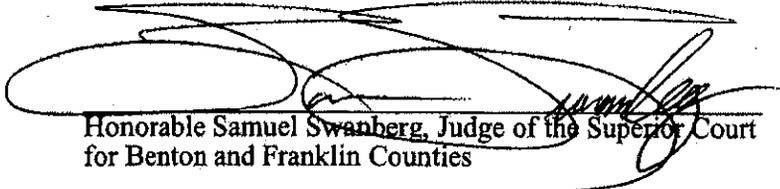
21
22 
23 Honorable Cameron Mitchell, Judge of the Superior Court
for Benton and Franklin Counties

24
25 
26 Honorable Jacqueline Shea-Brown, Judge of the Superior Court
for Benton and Franklin Counties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Carrie Runge

Honorable Carrie Runge, Judge of the Superior Court
for Benton and Franklin Counties


Honorable Samuel Swanberg, Judge of the Superior Court
for Benton and Franklin Counties

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A SPECIAL
DEPUTY PROSECUTING ATTORNEY

)
)
)
)
)

NO. 18-2-50522-11

DECLARATION OF MELYSSA LEAVITT

I, Melyssa Leavitt, Superior Court Deputy Clerk for Franklin County, declare as follows:

1. I am competent to testify in all respects, and make this declaration from my personal knowledge.
2. In my capacity as Deputy Clerk, I have been appointed by the Franklin County Clerk and Clerk of the Superior Court, Michael J. Killian and perform the duties of my position on his behalf and at his direction.
3. Attached hereto as exhibits are true and correct copies of the Benton and Franklin Counties Superior Court Daily Schedule for Monday, May 21, 2018 and Tuesday, May 22, 2018, evidencing all Superior Court proceedings in Benton and Franklin Counties; and Order of Appointment, executed on Monday, May 21, 2018 by all of the Judges of the Superior Court for Benton and Franklin Counties.
4. On Monday, May 21, 2018, I was assigned to and personally attended and clerked the Domestic Docket, Adoption Docket and Domestic/DVP Docket with the Honorable Commissioner Peterson presiding.
5. On Tuesday, May 22, 2018, I was absent from the office.
6. This action, or any reference to the Matter In Re The Appointment of a Special Deputy Prosecuting Attorney, was not presented and did not come before the Court during any proceeding I attended and clerked on May 21, 2018.

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

SIGNED at Pasco, Washington, this 5th day of June, 2018



MELYSSA LEAVITT, Deputy Clerk

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
MONDAY, MAY 21, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
Jury Assembly Rm:	8:45	JURY INDOCTRINATION		Theresa
COURTROOM B:	8:30	ST V. NELSON, 17-1-00480-8 (Continuance)	Katie	Theresa
<i>Jury Panel @ 8:00am</i>	8:30	STATE V. MILLER, 15-1-00519-1 (Jury Trial, 3 Days - P/S to 5/29 at 9:00am)	Katie	Theresa
<i>Jury Panel in @ 10:00am</i>	1:15	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
JUDGE SPANNER				
COURTROOM C:	1:15	PRELIMS	Renee	Kerry
	1:30	IN RE GENESIS INVESTMENTS AND SERVICES, 17-2-01071-2 (Non-Jury Trial, 1/2 Day w/AM Read Time)	Renee	Kerry
JUDGE RUNGE				
Jury Assembly Rm:	10:00	JURY INDOCTRINATION		Staci
COURTROOM D:	1:30	IN RE: RAMIREZ, 18-7-00002-1, 18-7-00003-9, 18-7-00004-7 (Pre-Trial Termination)	Digital	TCM
	3:30			
CHAMBERS				
Chambers:		GMP CASE REVIEW		

BENTON/FRANKLIN COUNTIES JUVENILE:

COURTROOM #1:	1:30	CRIMINAL DOCKET	Digital	TCM
	2:30	IN RE: BAGLEY, 18-7-50175-11 (Contested At-Risk)	Digital	TCM

FRANKLIN COUNTY:

COMMISSIONER PETERSON				
COURTROOM #1: <i>Spanish Interpreter - Sylvia Garza</i>	8:30	DOMESTIC DOCKET	Digital	Lew
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	1:30	ADOPTION DOCKET	Digital	Lew
	1:30	DOMESTIC / DVP DOCKET	Digital	Lew
JUDGE MITCHELL				
Chambers #2:	9:00	CIVIL STATUS CONFERENCES		
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	11:00	LOPEZ V. CHAVEZ, 17-2-50193-11 (Entry, 1/2 Hour)	Digital	Lew
COURTROOM #1:	1:00			Lew
	1:30	PRELIMS (Spanish Interpreter @ Jail - Sylvia)	Joe	Lew
COMMISSIONER PETERSON				
COURTROOM #1:	2:30	CIVIL DOCKET	Joe	Lew
JUDGE SHEA-BROWN				
Louderes Counseling Ctr:	8:15			
Jury Room #1:	9:00	CIVIL SETTLEMENT / PRETRIAL CONF'S		
JUDGE PRO TEM LEDGERWOOD				
Jury Room #1:	2:00	DOMESTIC SETTLEMENT CONFERENCES		
MAIL:				
OUT OF OFFICE: Judge Runge (8-9am), Judge Shea-Brown (PM - business), Brian, Tiffany, Pat (11-1)				

sq
ml
ml
ml
km
km
sl
km
sq

BENTON AND FRANKLIN COUNTIES SUPERIOR COURT

DAILY SCHEDULE

TUESDAY, MAY 22, 2018

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
COURTROOM B: <i>Jury Panel in @ 10:00am</i>	9:00	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
COURTROOM C:	8:15	DOMESTIC DOCKET - OVERTENS	Digital	Theresa
	1:30	DOMESTIC DOCKET - PM	Digital	Theresa
JUDGE SPANNER				
<i>Lourdes Counseling Ctr:</i>	8:15	MENTAL HEALTH HEARINGS (2 Benton, 1 Franklin)		
COURTROOM D:	1:30	EX PARTE DOCKET		TCM
COMMISSIONER PETERSON				
COURTROOM E: <i>Spanish Interpreter - Sylvia Garza</i>	8:15	DOMESTIC STATUS	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	10:30	PATERNITY DOCKET	Digital	Kerry
	1:15	CONTEMPT DOCKET	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	1:30	STATE / PRO SE DOCKET	Digital	Kerry
JUDGE RINGL				
COURTROOM F:	9:00	STATE V. HAYES, 17-8-000291-6 (Non Jury Trial, 1 Day)	Digital	TCM
	1:15	PRELIMS	Michelle	TCM

BENTON/FRANKLIN COUNTIES JUVENILE:

~ NC

COURTROOM #1:	8:30	DEPENDENCY DOCKET	Digital	TCM
	1:30	DEPENDENCY DOCKET	Digital	TCM

FRANKLIN COUNTY:

JUDGE BURROWES				
COURTROOM #3:	8:30	CRIMINAL DOCKET	Nicole	Lew
JUDGE SHIVA-BROWN				
COURTROOM #1:	1:00	CRIMINAL DOCKET		Lew
COURTROOM #3:	1:30	CRIMINAL DOCKET	Joe	Lew

Keyl Diana For Vazmin

MAIL
OUT OF OFFICE: Brian

sg

nc

ME

TZ ME

FILED
FRANKLIN CO CLERK

2018 MAY 22 PM 3:32

MICHAEL J. KILLIAN

BY *JK* DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A
SPECIAL DEPUTY PROSECUTING
ATTORNEY

18 250522 11
ORDER OF APPOINTMENT

This matter came before the above-entitled Court for consideration of the appointment of a Special Deputy Prosecuting Attorney for Franklin County, pursuant to RCW 36.27.030. The Court makes the following Findings of Fact related thereto:

1. In relation to the action entitled *The Judges of the Benton and Franklin Counties Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-brown, Judge Bruce Spanner and Judge Sam Swanberg, Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court, Defendants*, Franklin County Superior Court No. 18-2-50285-11, as contemplated by RCW 36.27.030, the Prosecuting Attorney of Franklin County is unable to discharge the duties of his office due to a disability arising from the requirements and limitations of Rules of Professional Conduct, Rule 1.7; and

2. The Attorney General of the State of Washington has declined to represent the plaintiffs in the action referred to above; and

3. W. Dale Kamerrer, WSBA #8218, is a duly admitted and practicing attorney-at-law and resident of the State of Washington, and is qualified to discharge the duties of the Prosecuting Attorney of Franklin County in relation to the above-referenced action, and has been performing the duties of the attorney for the plaintiffs in said action pursuant to

ORDER OF APPOINTMENT - 1

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

SCANNED

1 appointment by the Franklin County Prosecuting Attorney to serve as a Special Deputy
2 Prosecutor; and

3 4. Mr. Kamerrer shall receive such reasonable compensation for the professional
4 services he renders to the plaintiffs as may be fixed and ordered by the court to be paid by
5 Franklin County.

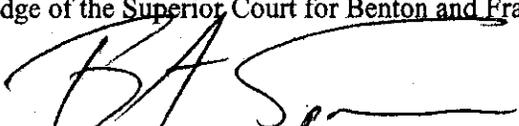
6 Based upon the foregoing Findings of Fact, it is now hereby Ordered:

7 1. W. Dale Kamerrer is hereby Appointed as a Special Deputy Prosecuting Attorney
8 to represent the plaintiffs in the action identified above.

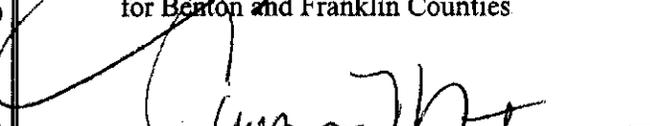
9 2. Payment of compensation for the professional services rendered shall be subject
10 to further order of the court.

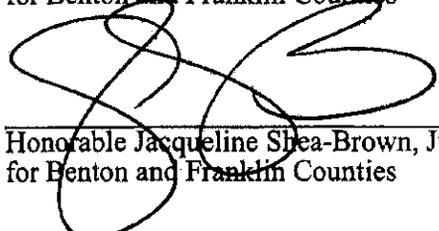
11 Dated this 21st day of May 2018.

12
13 
14 Honorable Alex Ekstrom, Administrative Presiding Judge,
Judge of the Superior Court for Benton and Franklin Counties

15
16 
17 Honorable Bruce Spanner, Assistant Administrative Presiding Judge,
Judge of the Superior Court for Benton and Franklin Counties

18
19 
20 Honorable Joseph Burrowes, Judge of the Superior Court
for Benton and Franklin Counties

21
22 
23 Honorable Cameron Mitchell, Judge of the Superior Court
for Benton and Franklin Counties

24
25 
26 Honorable Jacqueline Shea-Brown, Judge of the Superior Court
for Benton and Franklin Counties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Carrie Runge

Honorable Carrie Runge, Judge of the Superior Court
for Benton and Franklin Counties

[Signature]
Honorable Samuel Swanberg, Judge of the Superior Court
for Benton and Franklin Counties

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A SPECIAL
DEPUTY PROSECUTING ATTORNEY

)
)
)
)
)

NO. 18-2-50522-11

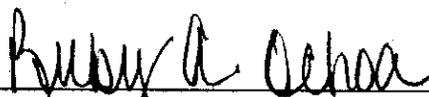
DECLARATION OF RUBY A OCHOA
REGARDING YAZMIN LEOS ABSENCE

I, Ruby A. Ochoa, Superior Court Clerk Chief Deputy for Franklin County, declare as follows:

1. I am competent to testify in all respects, and make this declaration from my personal knowledge.
2. In my capacity as Chief Deputy, I have been appointed by the Franklin County Clerk and Clerk of the Superior Court, Michael J. Killian and perform the duties of my position on his behalf and at his direction. I also approve and schedule staff absence requests.
3. Attached hereto as an exhibit is a Franklin County Absence Report for Yazmin Leos evidencing that she was scheduled out of the office on Monday, May 21, 2018 and Tuesday, May 22, 2018.

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

SIGNED at Pasco, Washington, this 5th day of June, 2018



RUBY A. OCHOA
Franklin County Clerk Chief Deputy

**Franklin County
ABSENCE REPORT**

Name YAZMIN LEOS Dept. CIVIL DEPARTMENT

From	Time 8:00 AM	Date 05/21/2018
To	Time 4:30 PM	Date 05/25/2018

No. of Days 5 No. of hours 37.50

REASON FOR ABSENCE
(check one)

- | | | |
|---------------------------------------|--|--|
| <input type="checkbox"/> Vacation | <input type="checkbox"/> Floating Holiday | <input checked="" type="checkbox"/> Sick Leave |
| <input type="checkbox"/> Leav W/O Pay | <input type="checkbox"/> Accident on Duty | <input type="checkbox"/> Illness/Self |
| <input type="checkbox"/> Jury Duty | <input type="checkbox"/> Accident off Duty | <input type="checkbox"/> Illness/Family |
| <input type="checkbox"/> Military | <input type="checkbox"/> Other (explain below) | |
| <input type="checkbox"/> Comp Time | <input type="checkbox"/> Personal Leave | |

Name of Doctor _____

Name of Hospital _____

Reported To	By phone	By Messenger	Other Means	Date	Hour

Nature of Illness: Bronchitis

Reason For "Other" Absence Explained (as required above)

Requested By:

Approved By:

Yazmin Leos

Paula Dehor

[Signature]

Employee

Supervisor

Dicted Official

4-3-18

4/3/18

4/3/18

Date

Date

Date

R-1

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A SPECIAL
DEPUTY PROSECUTING ATTORNEY

)
)
)
)
)

NO. 18-2-50522-11

DECLARATION OF KAY MORIN

I, Kay Morin, Superior Court Deputy Clerk for Franklin County, declare as follows:

1. I am competent to testify in all respects, and make this declaration from my personal knowledge.
2. In my capacity as Deputy Clerk, I have been appointed by the Franklin County Clerk and Clerk of the Superior Court, Michael J. Killian and perform the duties of my position on his behalf and at his direction.
3. Attached hereto as exhibits are true and correct copies of the Benton and Franklin Counties Superior Court Daily Schedule for Monday, May 21, 2018 and Tuesday, May 22, 2018, evidencing all Superior Court proceedings in Benton and Franklin Counties; and Order of Appointment, executed on Monday, May 21, 2018 by all of the Judges of the Superior Court for Benton and Franklin Counties.
4. On Monday, May 21, 2018, I was assigned to, personally attended and clerked the Lopez v. Chavez hearing and Ex Parte Docket with the Honorable Judge Mitchell presiding; and the Civil Docket with the Honorable Commissioner Starn presiding.
5. On Tuesday, May 22, 2018, I was not assigned to any courtroom proceedings.
6. This action, or any reference to the Matter In Re The Appointment of a Special Deputy Prosecuting Attorney, was not presented and did not come before the Court during any proceeding I attended and clerked on May 21, 2018.

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

SIGNED at Pasco, Washington, this 5th day of June, 2018


KAY MORIN, Deputy Clerk

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
MONDAY, MAY 21, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
Jury Assembly Rm:	8:45	JURY INDOCTRINATION		Theresa
COURTROOM B:	8:30	ST V. NELSON, 17-1-00480-8 (Continuance)	Katie	Theresa
<i>Jury Panel @ 8:00am</i>	8:30	STATE V. MILLER, 15-1-00519-1 (Jury Trial, 3 Days - P/S to 5/29 at 9:00am)	Katie	Theresa
<i>Jury Panel in @ 10:00am</i>	1:15	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
JUDGE SPANNER				
COURTROOM C:	1:15	PRELIMS	Renee	Kerry
	1:30	IN RE GENESIS INVESTMENTS AND SERVICES, 17-2-01071-2 (Non-Jury Trial, 1/2 Day w/AM Read Time)	Renee	Kerry
JUDGE RUNGE				
Jury Assembly Rm:	10:00	JURY INDOCTRINATION		Staci
COURTROOM D:	1:30	IN RE: RAMIREZ, 18-7-00002-1, 18-7-00003-9, 18-7-00004-7 (Pre-Trial Termination)	Digital	TCM
	3:30			TCM
Chambers:		GMP CASE REVIEW		

BENTON/FRANKLIN COUNTIES JUVENILE:

COURTROOM #1:	1:30	CRIMINAL DOCKET	Digital	TCM
	2:30	IN RE: BAGLEY, 18-7-50175-11 (Contested At-Risk)	Digital	TCM

FRANKLIN COUNTY:

COMMISSIONER PETERSON				
COURTROOM #1: <i>Spanish Interpreter - Sylvia Garza</i>	8:30	DOMESTIC DOCKET	Digital	Lew
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	1:30	ADOPTION DOCKET	Digital	Lew
	1:30	DOMESTIC / DVP DOCKET	Digital	Lew
JUDGE MITCHELL				
Chambers #2:	9:00	CIVIL STATUS CONFERENCES		
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	11:00	LOPEZ V. CHAVEZ, 17-2-50193-11 (Entry, 1/2 Hour)	Digital	Lew
COURTROOM #1:	1:00	PRELIMS (Spanish Interpreter @ Jail - Sylvia)	Joe	Lew
	1:30			Lew
COURTROOM #1:	2:30	CIVIL DOCKET	Joe	Lew
JUDGE SHEA-BROWN				
Lowder Counseling Ctr:	8:15			
Jury Room #1:	9:00	CIVIL SETTLEMENT / PRETRIAL CONF'S		
JUDGE PRO TEM LEDGERWOOD				
Jury Room #1:	2:00	DOMESTIC SETTLEMENT CONFERENCES		
MAIL:				
OUT OF OFFICE: Judge Runge (8-9am), Judge Shea-Brown (PM -business), Brian, Tiffany, Pat (11-1)				

sg
ml
ml
ml
-
km
km
sk
km
sg

BENTON AND FRANKLIN COUNTIES SUPERIOR COURT

DAILY SCHEDULE

TUESDAY, MAY 22, 2018

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
COURTROOM B: <i>Jury Panel in @ 10:00am</i>	9:00	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
COURTROOM C:	8:15	DOMESTIC DOCKET - OVERTENS	Digital	Theresa
	1:30	DOMESTIC DOCKET - PM	Digital	Theresa
JUDGE SPANNER				
<i>Loures Counseling Ctr:</i>	8:15	MENTAL HEALTH HEARINGS (2 Benton, 1 Franklin)		
COURTROOM D:	1:30	EX PARTE DOCKET		TCM
COMMISSIONER PETERSON				
COURTROOM E: <i>Spanish Interpreter - Sylvia Garza</i>	8:15	DOMESTIC STATUS	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	10:30	PATERNITY DOCKET	Digital	Kerry
	1:15	CONTEMPT DOCKET	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	1:30	STATE / PRO SE DOCKET	Digital	Kerry
JUDGE RUNGE				
COURTROOM F:	9:00	STATE V. HAYES, 17-8-000291-6 (Non Jury Trial, 1 Day)	Digital	TCM
	1:15	PRELIMS	Michelle	TCM

BENTON/FRANKLIN COUNTIES JUVENILE:

COURTROOM #1:	8:30	DEPENDENCY DOCKET	Digital	TCM
	1:30	DEPENDENCY DOCKET	Digital	TCM

FRANKLIN COUNTY:

JUDGE BURROWES				
COURTROOM #3:	8:30	CRIMINAL DOCKET	Nicole	Lew
JUDGE SHAW-BROWN				
COURTROOM #1:	1:00	EX PARTE DOCKET		Lew
COURTROOM #3:	1:30	CRIMINAL DOCKET	Joe	Lew

Keyyl Diana for Vazmin

MAIL

OUT OF OFFICE: Brian

sg

nc

nc

me

TZ me

FILED
FRANKLIN CO CLERK

2018 MAY 22 PM 3:32

MICHAEL J. KILLIAN

BY *JK* DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A
SPECIAL DEPUTY PROSECUTING
ATTORNEY

18 250522 11
ORDER OF APPOINTMENT

This matter came before the above-entitled Court for consideration of the appointment of a Special Deputy Prosecuting Attorney for Franklin County, pursuant to RCW 36.27.030. The Court makes the following Findings of Fact related thereto:

1. In relation to the action entitled *The Judges of the Benton and Franklin Counties Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-brown, Judge Bruce Spanner and Judge Sam Swanberg, Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court, Defendants*, Franklin County Superior Court No. 18-2-50285-11, as contemplated by RCW 36.27.030, the Prosecuting Attorney of Franklin County is unable to discharge the duties of his office due to a disability arising from the requirements and limitations of Rules of Professional Conduct, Rule 1.7; and

2. The Attorney General of the State of Washington has declined to represent the plaintiffs in the action referred to above; and

3. W. Dale Kamerrer, WSBA #8218, is a duly admitted and practicing attorney-at-law and resident of the State of Washington, and is qualified to discharge the duties of the Prosecuting Attorney of Franklin County in relation to the above-referenced action, and has been performing the duties of the attorney for the plaintiffs in said action pursuant to

ORDER OF APPOINTMENT - 1

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

SCANNED

1 appointment by the Franklin County Prosecuting Attorney to serve as a Special Deputy
2 Prosecutor; and

3 4. Mr. Kamerrer shall receive such reasonable compensation for the professional
4 services he renders to the plaintiffs as may be fixed and ordered by the court to be paid by
5 Franklin County.

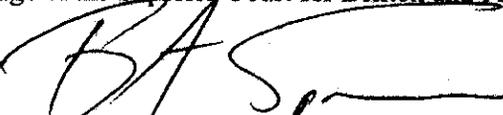
6 Based upon the foregoing Findings of Fact, it is now hereby Ordered:

7 1. W. Dale Kamerrer is hereby Appointed as a Special Deputy Prosecuting Attorney
8 to represent the plaintiffs in the action identified above.

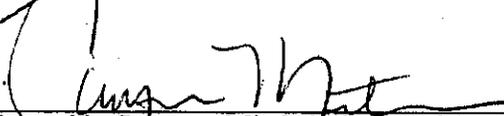
9 2. Payment of compensation for the professional services rendered shall be subject
10 to further order of the court.

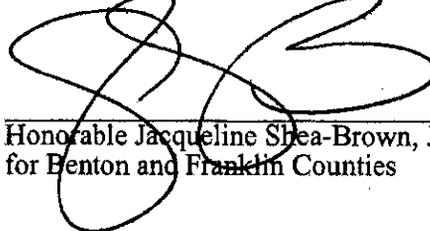
11 Dated this 21st day of May 2018.

12 
13 _____
14 Honorable Alex Ekstrom, Administrative Presiding Judge,
15 Judge of the Superior Court for Benton and Franklin Counties

16 
17 _____
18 Honorable Bruce Spanner, Assistant Administrative Presiding Judge,
19 Judge of the Superior Court for Benton and Franklin Counties

20 
21 _____
22 Honorable Joseph Burrowes, Judge of the Superior Court
23 for Benton and Franklin Counties

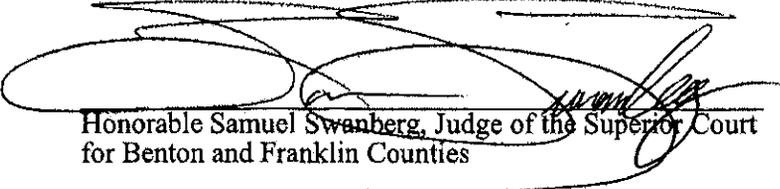
24 
25 _____
26 Honorable Cameron Mitchell, Judge of the Superior Court
for Benton and Franklin Counties



Honorable Jacqueline Shea-Brown, Judge of the Superior Court
for Benton and Franklin Counties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Carrie Runge
Honorable Carrie Runge, Judge of the Superior Court
for Benton and Franklin Counties


Honorable Samuel Swanberg, Judge of the Superior Court
for Benton and Franklin Counties

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A SPECIAL
DEPUTY PROSECUTING ATTORNEY

)
)
)
)
)

NO. 18-2-50522-11

DECLARATION OF RUBY A OCHOA

I, Ruby A. Ochoa, Superior Court Chief Deputy Clerk for Franklin County, declares as follows:

1. I am competent to testify in all respects, and make this declaration from my personal knowledge.
2. In my capacity as Chief Deputy Clerk, I have been appointed by the Franklin County Clerk and Clerk of the Superior Court, Michael J. Killian and perform the duties of my position on his behalf and at his direction.
3. Attached hereto as exhibits are true and correct copies of the Benton and Franklin Counties Superior Court Daily Schedule for Monday, May 21, 2018 and Tuesday, May 22, 2018, evidencing all Superior Court proceedings in Benton and Franklin Counties; and Order of Appointment, executed on Monday, May 21, 2018 by all of the Judges of the Superior Court for Benton and Franklin Counties.
4. On Monday, May 21, 2018 and Tuesday, May 22, 2018, I was present for work in the Franklin County Clerk's Office; however, I was not in attendance in any courtroom proceedings.
5. To the best of my knowledge, this action, or any reference to the Matter In Re The Appointment of a Special Deputy Prosecuting Attorney, was not presented and did not come before the Court during any proceeding held in Franklin County.
6. On Tuesday, May 22, 2018 at approximately 3:30 p.m. the Superior Court Administrator, Patricia Austin, presented in our office with the attached Order of Appointment and asked me who she should give it to for filing in the current Civil Administrative file. A Civil Administrative file is created on an

annual basis to file Administrative Orders of the Court and other miscellaneous orders and documents that are not associated with an existing Superior Court cause. I took the document to file in our normal course and continued our conversation, which included Mr. Killian. At no time did Ms. Austin indicate to either of us the content or significance of the document.

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

SIGNED at Pasco, Washington, this 5th day of June, 2018


RUBY A. OCHOA, Chief Deputy Clerk

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
MONDAY, MAY 21, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
Jury Assembly Rm:	8:45	JURY INDOCTRINATION		Theresa
COURTROOM B:	8:30	ST V. NELSON, 17-1-00480-8 (Continuance)	Katie	Theresa
<i>Jury Panel @ 8:00am</i>	8:30	STATE V. MILLER, 15-1-00519-1 (Jury Trial, 3 Days - P/S to 5/29 at 9:00am)	Katie	Theresa
<i>Jury Panel in @ 10:00am</i>	1:15	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
JUDGE SPANNER				
COURTROOM C:	1:15	PRELIMS	Renee	Kerry
	1:30	IN RE GENESIS INVESTMENTS AND SERVICES, 17-2-01071-2 (Non-Jury Trial, 1/2 Day w/AM Read Time)	Renee	Kerry
JUDGE RENO				
Jury Assembly Rm:	10:00	JURY INDOCTRINATION		Staci
COURTROOM D:	1:30			TCM
	3:30	IN RE: RAMIREZ, 18-7-00002-1, 18-7-00003-9, 18-7-00004-7 (Pre-Trial Termination)	Digital	TCM
Chambers:		GMP CASE REVIEW		

BENTON/FRANKLIN COUNTIES JUVENILE:

COURTROOM #1:	1:30	CRIMINAL DOCKET	Digital	TCM
	2:30	IN RE: BAGLEY, 18-7-50175-11 (Contested At-Risk)	Digital	TCM

FRANKLIN COUNTY:

COMMISSIONER PETERSON				
COURTROOM #1: <i>Spanish Interpreter - Sylvia Garza</i>	8:30	DOMESTIC DOCKET	Digital	Lew
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	1:30	ADOPTION DOCKET	Digital	Lew
	1:30	DOMESTIC / DVP DOCKET	Digital	Lew
JUDGE ANTHONY HILL				
Chambers #2:	9:00	CIVIL STATUS CONFERENCES		
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	11:00	LOPEZ V. CHAVEZ, 17-2-50193-11 (Entry, 1/2 Hour)	Digital	Lew
COURTROOM #1:	1:00			Lew
	1:30	PRELIMS (Spanish Interpreter @ Jail - Sylvia)	Joe	Lew
COURTROOM #1:	2:30	CIVIL DOCKET	Joe	Lew
JUDGE JAMES BROWN				
Lawson Commission City:	8:15			
Jury Room #1:	9:00	CIVIL SETTLEMENT / PRETRIAL CONF'S		
JUDGE PRO TEM LEDGERWOOD				
Jury Room #1:	2:00	DOMESTIC SETTLEMENT CONFERENCES		
MAIL:				
OUT OF OFFICE: Judge Range (8-9am), Judge Sherrill (9am-12pm), Judge Brown (PM - business), Brian, Tiffany, Pat (11-1)				

sq
ml
ml
ml
km
km
sr
km
sq

BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
TUESDAY, MAY 22, 2018

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Ceryl	Dick
COURTROOM B: <i>Jury Panel in @ 10:00am</i>	9:00	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
COURTROOM C:	8:15	DOMESTIC DOCKET - OVERTENS	Digital	Theresa
	1:30	DOMESTIC DOCKET - FM	Digital	Theresa
JUDGE SPANNER				
<i>Legal Counseling Ctr.</i>	8:15	MENTAL HEALTH HEARINGS (2 Benton, 1 Franklin)		
COURTROOM D:	1:30	EX PARTE DOCKET		TCM
COMMISSIONER PETERSON				
COURTROOM E: <i>Spanish Interpreter - Sylvia Garza</i>	8:15	DOMESTIC STATUS	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	10:30	PATERNITY DOCKET	Digital	Kerry
	1:15	CONTEMPT DOCKET	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	1:30	STATE / PRO SE DOCKET	Digital	Kerry
JUDGE SUNDI				
COURTROOM F:	9:00	STATE V. HAYES, 17-8-000291-6 (Non Jury Trial, 1 Day)	Digital	TCM
	1:15	PRELIMS	Michelle	TCM

BENTON/FRANKLIN COUNTIES JUVENILE: ~ NC

COURTROOM #1:	8:30	DEPENDENCY DOCKET	Digital	TCM
	1:30	DEPENDENCY DOCKET	Digital	TCM

FRANKLIN COUNTY:

JUDGE BIRKOWS				
COURTROOM #2:	8:30	CRIMINAL DOCKET	Nicole	Lew
JUDGE SUE BROWN				
COURTROOM #1:	1:00			Lew
COURTROOM #3:	1:30	CRIMINAL DOCKET	Joe	Lew

Keyl Diana for Vazmin

MAIL:
OUT OF OFFICE: Brian

sg

nc

ME

*JZ
ME*

FILED
FRANKLIN CO CLERK
2018 MAY 22 PM 3:32

MICHAEL J. KILLIAN

BY *JK* DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A
SPECIAL DEPUTY PROSECUTING
ATTORNEY

18 250522 11
ORDER OF APPOINTMENT

This matter came before the above-entitled Court for consideration of the appointment of a Special Deputy Prosecuting Attorney for Franklin County, pursuant to RCW 36.27.030. The Court makes the following Findings of Fact related thereto:

1. In relation to the action entitled *The Judges of the Benton and Franklin Counties Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-brown, Judge Bruce Spanner and Judge Sam Swanberg, Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court, Defendants*, Franklin County Superior Court No. 18-2-50285-11, as contemplated by RCW 36.27.030, the Prosecuting Attorney of Franklin County is unable to discharge the duties of his office due to a disability arising from the requirements and limitations of Rules of Professional Conduct, Rule 1.7; and

2. The Attorney General of the State of Washington has declined to represent the plaintiffs in the action referred to above; and

3. W. Dale Kamerrer, WSBA #8218, is a duly admitted and practicing attorney-at-law and resident of the State of Washington, and is qualified to discharge the duties of the Prosecuting Attorney of Franklin County in relation to the above-referenced action, and has been performing the duties of the attorney for the plaintiffs in said action pursuant to

ORDER OF APPOINTMENT - 1

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

SCANNED

1 appointment by the Franklin County Prosecuting Attorney to serve as a Special Deputy
2 Prosecutor; and

3 4. Mr. Kamerrer shall receive such reasonable compensation for the professional
4 services he renders to the plaintiffs as may be fixed and ordered by the court to be paid by
5 Franklin County.

6 Based upon the foregoing Findings of Fact, it is now hereby Ordered:

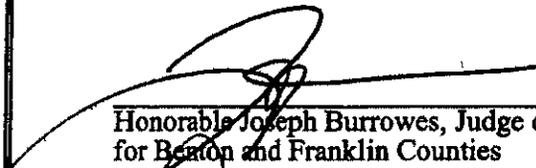
7 1. W. Dale Kamerrer is hereby Appointed as a Special Deputy Prosecuting Attorney
8 to represent the plaintiffs in the action identified above.

9 2. Payment of compensation for the professional services rendered shall be subject
10 to further order of the court.

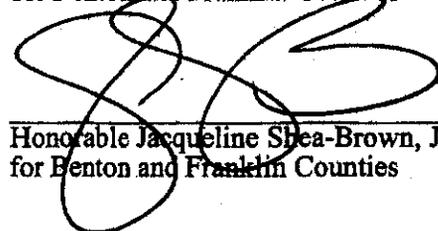
11 Dated this 21st day of May 2018.

12 
13 _____
14 Honorable Alex Ekstrom, Administrative Presiding Judge,
15 Judge of the Superior Court for Benton and Franklin Counties

16 
17 _____
18 Honorable Bruce Spanner, Assistant Administrative Presiding Judge,
19 Judge of the Superior Court for Benton and Franklin Counties

20 
21 _____
22 Honorable Joseph Burrowes, Judge of the Superior Court
23 for Benton and Franklin Counties

24 
25 _____
26 Honorable Cameron Mitchell, Judge of the Superior Court
for Benton and Franklin Counties



Honorable Jacqueline Shea-Brown, Judge of the Superior Court
for Benton and Franklin Counties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Carrie Runge
Honorable Carrie Runge, Judge of the Superior Court
for Benton and Franklin Counties

[Signature]
Honorable Samuel Swenberg, Judge of the Superior Court
for Benton and Franklin Counties

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
MONDAY, MAY 21, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
Jury Assembly Rm:	8:45	JURY INDOCTRINATION		Theresa
COURTROOM B:	8:30	ST V. NELSON, 17-1-00480-8 (Continuance)	Katie	Theresa
<i>Jury Panel @ 8:00am</i>	8:30	STATE V. MILLER, 15-1-00519-1 (Jury Trial, 3 Days - P/S to 5/29 at 9:00am)	Katie	Theresa
<i>Jury Panel in @ 10:00am</i>	1:15	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
JUDGE SPANNER				
COURTROOM C:	1:15	PRELIMS	Rence	Kerry
	1:30	IN RE GENESIS INVESTMENTS AND SERVICES, 17-2-01071-2 (Non-Jury Trial, 1/2 Day w/AM Read Time)	Rence	Kerry
JUDGE RINGE				
Jury Assembly Rm:	10:00	JURY INDOCTRINATION		Staci
COURTROOM D:	1:30	PRELIMS		TCM
	3:30	IN RE: RAMIREZ, 18-7-00002-1, 18-7-00003-9, 18-7-00004-7 (Pre-Trial Termination)	Digital	TCM
Chambers:				
		GMP CASE REVIEW		

BENTON/FRANKLIN COUNTIES JUVENILE:

COURTROOM #1:	1:30	CRIMINAL DOCKET	Digital	TCM
	2:30	IN RE: BAGLEY, 18-7-50175-11 (Contested At-Risk)	Digital	TCM

FRANKLIN COUNTY:

COMMISSIONER PETERSON				
COURTROOM #1: <i>Spanish Interpreter - Sylvia Garza</i>	8:30	DOMESTIC DOCKET	Digital	Lew
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	1:30	ADOPTION DOCKET	Digital	Lew
	1:30	DOMESTIC / DVP DOCKET	Digital	Lew
JUDGE MICHELL				
Chambers #2:	9:00	CIVIL STATUS CONFERENCES		
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	11:00	LOPEZ V. CHAVEZ, 17-2-50193-11 (Entry, 1/2 Hour)	Digital	Lew
COURTROOM #1:	1:00	PRELIMS		Lew
	1:30	PRELIMS (Spanish Interpreter @ Jail - Sylvia)	Joe	Lew
COURTROOM #1:	2:30	CIVIL DOCKET	Joe	Lew
JUDGE SHEA-BROWN				
Lourdes Counseling Ctr:	8:15			
Jury Room #1:	9:00	CIVIL SETTLEMENT / PRETRIAL CONF'S		
JUDGE PRO TEM LEDGERWOOD				
Jury Room #1:	2:00	DOMESTIC SETTLEMENT CONFERENCES		
MAIL:				
OUT OF OFFICE: Judge Runge (8-9am), Judge Shea-Brown (PM - business), Brian, Tiffany, Pat (11-1)				

sq
ml
ml
ml
-
km
km
sk
km
sq

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
TUESDAY, MAY 22, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
COURTROOM B: <i>Jury Panel in @ 10:00am</i>	9:00	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
COURTROOM C:	8:15	DOMESTIC DOCKET - OVERTENS	Digital	Theresa
	1:30	DOMESTIC DOCKET - PM	Digital	Theresa
JUDGE SPANNER				
<i>Logdes Counseling Ctr:</i>	8:15	MENTAL HEALTH HEARINGS (2 Benton, 1 Franklin)		
COURTROOM D:	1:30	EX PARTE DOCKET		TCM
COMMISSIONER PETERSON				
COURTROOM E: <i>Spanish Interpreter - Sylvia Garza</i>	8:15	DOMESTIC STATUS	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	10:30	PATERNITY DOCKET	Digital	Kerry
	1:15	CONTEMPT DOCKET	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	1:30	STATE / PRO SE DOCKET	Digital	Kerry
JUDGE RINGL				
COURTROOM F:	9:00	STATE V. HAYES, 17-8-000291-6 (Non Jury Trial, 1 Day)	Digital	TCM
	1:15	PRELIMS	Michelle	TCM

BENTON/FRANKLIN COUNTIES JUVENILE: — NC

COURTROOM #1:	8:30	DEPENDENCY DOCKET	Digital	TCM
	1:30	DEPENDENCY DOCKET	Digital	TCM

FRANKLIN COUNTY:

JUDGE BURROWS				
COURTROOM #3:	8:30	CRIMINAL DOCKET	Nicole	Lew
JUDGE SHAW-BROWN				
COURTROOM #1:	1:00	CRIMINAL DOCKET		Lew
COURTROOM #3:	1:30	CRIMINAL DOCKET	Joe	Lew

Keyyl Diana for Yazmin

MAIL:
OUT OF OFFICE: Brian

sg

nc

me

TZ me

FILED
FRANKLIN CO CLERK

2018 MAY 22 PM 3:32

MICHAEL J. KILLIAN

BY *JK* DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A
SPECIAL DEPUTY PROSECUTING
ATTORNEY

18 250522 11
ORDER OF APPOINTMENT

This matter came before the above-entitled Court for consideration of the appointment of a Special Deputy Prosecuting Attorney for Franklin County, pursuant to RCW 36.27.030. The Court makes the following Findings of Fact related thereto:

1. In relation to the action entitled *The Judges of the Benton and Franklin Counties Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-brown, Judge Bruce Spanner and Judge Sam Swanberg, Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court, Defendants*, Franklin County Superior Court No. 18-2-50285-11, as contemplated by RCW 36.27.030, the Prosecuting Attorney of Franklin County is unable to discharge the duties of his office due to a disability arising from the requirements and limitations of Rules of Professional Conduct, Rule 1.7; and

2. The Attorney General of the State of Washington has declined to represent the plaintiffs in the action referred to above; and

3. W. Dale Kamerrer, WSBA #8218, is a duly admitted and practicing attorney-at-law and resident of the State of Washington, and is qualified to discharge the duties of the Prosecuting Attorney of Franklin County in relation to the above-referenced action, and has been performing the duties of the attorney for the plaintiffs in said action pursuant to

ORDER OF APPOINTMENT - 1

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98612
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

SCANNED

1 appointment by the Franklin County Prosecuting Attorney to serve as a Special Deputy
2 Prosecutor; and

3 4. Mr. Kamerrer shall receive such reasonable compensation for the professional
4 services he renders to the plaintiffs as may be fixed and ordered by the court to be paid by
5 Franklin County.

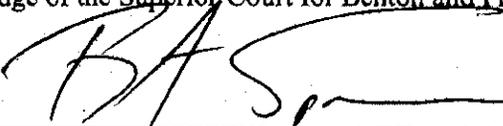
6 Based upon the foregoing Findings of Fact, it is now hereby Ordered:

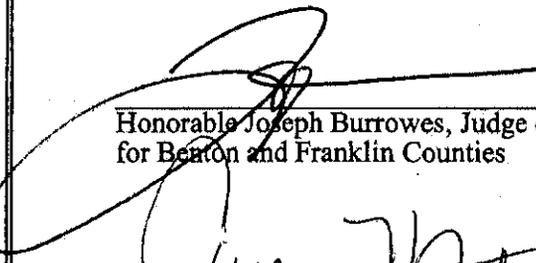
7 1. W. Dale Kamerrer is hereby Appointed as a Special Deputy Prosecuting Attorney
8 to represent the plaintiffs in the action identified above.

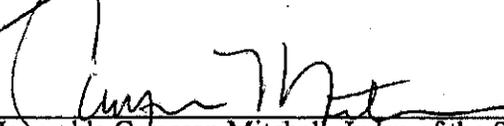
9 2. Payment of compensation for the professional services rendered shall be subject
10 to further order of the court.

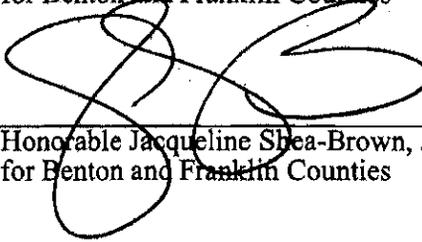
11 Dated this 21st day of May 2018.

12 
13 _____
14 Honorable Alex Ekstrom, Administrative Presiding Judge,
15 Judge of the Superior Court for Benton and Franklin Counties

16 
17 _____
18 Honorable Bruce Spanner, Assistant Administrative Presiding Judge,
19 Judge of the Superior Court for Benton and Franklin Counties

20 
21 _____
22 Honorable Joseph Burrowes, Judge of the Superior Court
23 for Benton and Franklin Counties

24 
25 _____
26 Honorable Cameron Mitchell, Judge of the Superior Court
for Benton and Franklin Counties

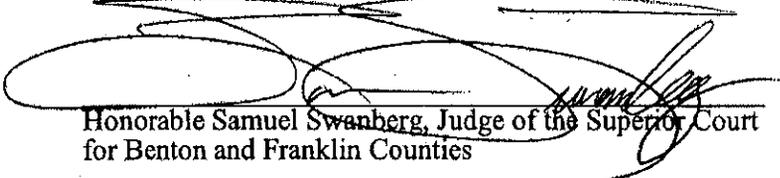


Honorable Jacqueline Shea-Brown, Judge of the Superior Court
for Benton and Franklin Counties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Carrie Runge

Honorable Carrie Runge, Judge of the Superior Court
for Benton and Franklin Counties


Honorable Samuel Swanberg, Judge of the Superior Court
for Benton and Franklin Counties

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

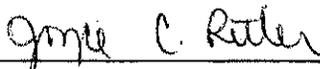
IN RE THE APPOINTMENT OF A SPECIAL)
DEPUTY PROSECUTING ATTORNEY) NO. 18-2-50522-11
)
) DECLARATION OF JOYCE RITTER
)

I, Joyce Ritter, Superior Court Deputy Clerk for Franklin County, declare as follows:

1. I am competent to testify in all respects, and make this declaration from my personal knowledge.
2. In my capacity as Deputy Clerk, I have been appointed by the Franklin County Clerk and Clerk of the Superior Court, Michael J. Killian and perform the duties of my position on his behalf and at his direction.
3. Attached hereto as exhibits are true and correct copies of the Benton and Franklin Counties Superior Court Daily Schedule for Monday, May 21, 2018 and Tuesday, May 22, 2018, evidencing all Superior Court proceedings in Benton and Franklin Counties; and Order of Appointment, executed on Monday, May 21, 2018 by all of the Judges of the Superior Court for Benton and Franklin Counties.
4. On Monday, May 21, 2018 and Tuesday, May 22, 2018, I was present for work in the Franklin County Clerk's Office; however, I was not assigned to any courtroom proceedings.
5. To the best of my knowledge, this action, or any reference to the Matter In Re The Appointment of a Special Deputy Prosecuting Attorney, was not presented and did not come before the Court during any proceeding held in Franklin County.

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

SIGNED at Pasco, Washington, this 5th day of June, 2018



JOYCE RITTER, Deputy Clerk

BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
MONDAY, MAY 21, 2018

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
Jury Assembly Rm:	8:45	JURY INDOCTRINATION		Theresa
COURTROOM B:	8:30	ST V. NELSON, 17-1-00480-8 (Continuance)	Katie	Theresa
Jury Panel @ 8:00am	8:30	STATE V. MILLER, 15-1-00519-1 (Jury Trial, 3 Days - P/S to 5/29 at 9:00am)	Katie	Theresa
Jury Panel in @ 10:00am	1:15	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
JUDGE SPANNER				
COURTROOM C:	1:15	PRELIMS	Renee	Kerry
	1:30	IN RE GENESIS INVESTMENTS AND SERVICES, 17-2-01071-2 (Non-Jury Trial, 1/2 Day w/AM Read Time)	Renee	Kerry
JUDGE BENTLEY				
Jury Assembly Rm:	10:00	JURY INDOCTRINATION		Staci
COURTROOM D:	1:30			TCM
	3:30	IN RE: RAMIREZ, 18-7-00002-1, 18-7-00003-9, 18-7-00004-7 (Pre-Trial Termination)	Digital	TCM
Chambers:		GMP CASE REVIEW		

BENTON/FRANKLIN COUNTIES JUVENILE:

COURTROOM #1:	1:30	CRIMINAL DOCKET	Digital	TCM
	2:30	IN RE: BAGLEY, 18-7-50175-11 (Contested At-Risk)	Digital	TCM

FRANKLIN COUNTY:

COMMISSIONER PETERSON				
COURTROOM #1: <i>Spanish Interpreter - Sylvia Garza</i>	8:30	DOMESTIC DOCKET	Digital	Lew
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	1:30	ADOPTION DOCKET	Digital	Lew
	1:30	DOMESTIC / DVP DOCKET	Digital	Lew
JUDGE SHAW				
Chambers #2:	9:00	CIVIL STATUS CONFERENCES		
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	11:00	LOPEZ V. CHAVEZ, 17-2-50193-11 (Entry, 1/2 Hour)	Digital	Lew
COURTROOM #1:	1:00			Lew
	1:30	PRELIMS (Spanish Interpreter @ Jail - Sylvia)	Joe	Lew
COURTROOM #1:	2:30	CIVIL DOCKET	Joe	Lew
JUDGE SHAW				
Jury Room #1:	9:00	CIVIL SETTLEMENT / PRETRIAL CONF'S		
JUDGE PRO TEM LEDGERWOOD				
Jury Room #1: <i>Nicole Joyce</i>	2:00	DOMESTIC SETTLEMENT CONFERENCES		
MAIL:				
OUT OF OFFICE: Judge Runge (8-9am), Judge Sheehy (9am-12pm), Judge Brown (PM - business), Brian, Tiffany, Pat (11-1)				

sq

ml
ml
ml

km
km
sk

km

sq

BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
TUESDAY, MAY 22, 2018

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
COURTROOM B: <i>Jury Panel In @ 10:00am</i>	9:00	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
COURTROOM C:	8:15	DOMESTIC DOCKET - OVERTENS	Digital	Theresa
	1:30	DOMESTIC DOCKET - PM	Digital	Theresa
JUDGE SPANNER				
<i>Leah's Counseling Ctr:</i>	8:15	MENTAL HEALTH HEARINGS (2 Benton, 1 Franklin)		
COURTROOM D:	1:30	EX PARTE DOCKET		TCM
COMMISSIONER P. HANSON				
COURTROOM E: <i>Spanish Interpreter - Sylvia Garza</i>	8:15	DOMESTIC STATUS	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	10:30	PATERNITY DOCKET	Digital	Kerry
	1:15	CONTEMPT DOCKET	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	1:30	STATE / PRO SE DOCKET	Digital	Kerry
JUDGE BENSON				
COURTROOM F:	9:00	STATE V. HAYES, 17-8-000291-6 (Non Jury Trial, 1 Day)	Digital	TCM
	1:15	PRELIMS	Michelle	TCM

sg

BENTON/FRANKLIN COUNTIES JUVENILE:

nc

COURTROOM #1:	8:30	DEPENDENCY DOCKET	Digital	TCM
	1:30	DEPENDENCY DOCKET	Digital	TCM

nc

FRANKLIN COUNTY:

JUDGE BURROWS				
COURTROOM #2:	8:30	CRIMINAL DOCKET	Nicole	Lew
JUDGE STEVEN BROWN				
COURTROOM #1:	1:00			Lew
COURTROOM #3:	1:30	CRIMINAL DOCKET	Joe	Lew

ME

TZ ME

Kayl Diana for Yazmin

MAIL:
 OUT OF OFFICE: Brian

FILED
FRANKLIN CO CLERK
2018 MAY 22 PM 3:32

MICHAEL J. KILLIAN

BY *PO* DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A
SPECIAL DEPUTY PROSECUTING
ATTORNEY

18 250522 11
ORDER OF APPOINTMENT

This matter came before the above-entitled Court for consideration of the appointment of a Special Deputy Prosecuting Attorney for Franklin County, pursuant to RCW 36.27.030. The Court makes the following Findings of Fact related thereto:

1. In relation to the action entitled *The Judges of the Benton and Franklin Counties Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-brown, Judge Bruce Spanner and Judge Sam Swanberg, Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court, Defendants*, Franklin County Superior Court No. 18-2-50285-11, as contemplated by RCW 36.27.030, the Prosecuting Attorney of Franklin County is unable to discharge the duties of his office due to a disability arising from the requirements and limitations of Rules of Professional Conduct, Rule 1.7; and

2. The Attorney General of the State of Washington has declined to represent the plaintiffs in the action referred to above; and

3. W. Dale Kamerrer, WSBA #8218, is a duly admitted and practicing attorney-at-law and resident of the State of Washington, and is qualified to discharge the duties of the Prosecuting Attorney of Franklin County in relation to the above-referenced action, and has been performing the duties of the attorney for the plaintiffs in said action pursuant to

ORDER OF APPOINTMENT - 1

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

SCANNED

1 appointment by the Franklin County Prosecuting Attorney to serve as a Special Deputy
2 Prosecutor; and

3 4. Mr. Kamerrer shall receive such reasonable compensation for the professional
4 services he renders to the plaintiffs as may be fixed and ordered by the court to be paid by
5 Franklin County.

6 Based upon the foregoing Findings of Fact, it is now hereby Ordered:

7 1. W. Dale Kamerrer is hereby Appointed as a Special Deputy Prosecuting Attorney
8 to represent the plaintiffs in the action identified above.

9 2. Payment of compensation for the professional services rendered shall be subject
10 to further order of the court.

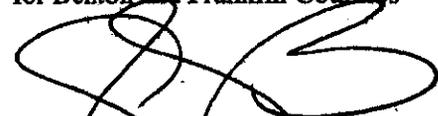
11 Dated this 21st day of May 2018.

12 
13 _____
14 Honorable Alex Ekstrom, Administrative Presiding Judge,
Judge of the Superior Court for Benton and Franklin Counties

15 
16 _____
17 Honorable Bruce Spanner, Assistant Administrative Presiding Judge,
Judge of the Superior Court for Benton and Franklin Counties

18 
19 _____
20 Honorable Joseph Burrowes, Judge of the Superior Court
for Benton and Franklin Counties

21 
22 _____
23 Honorable Cameron Mitchell, Judge of the Superior Court
for Benton and Franklin Counties

24 
25 _____
26 Honorable Jacqueline Shea-Brown, Judge of the Superior Court
for Benton and Franklin Counties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Carrie Runge

Honorable Carrie Runge, Judge of the Superior Court
for Benton and Franklin Counties

[Signature]
Honorable Samuel Swanberg, Judge of the Superior Court
for Benton and Franklin Counties

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A SPECIAL
DEPUTY PROSECUTING ATTORNEY

)
)
)
)
)

NO. 18-2-50522-11

DECLARATION OF SHERISE RODERICK

I, Sherise Roderick, Superior Court Deputy Clerk for Franklin County, declare as follows:

1. I am competent to testify in all respects, and make this declaration from my personal knowledge.
2. In my capacity as Deputy Clerk, I have been appointed by the Franklin County Clerk and Clerk of the Superior Court, Michael J. Killian and perform the duties of my position on his behalf and at his direction.
3. Attached hereto as exhibits are true and correct copies of the Benton and Franklin Counties Superior Court Daily Schedule for Monday, May 21, 2018 and Tuesday, May 22, 2018, evidencing all Superior Court proceedings in Benton and Franklin Counties; and Order of Appointment, executed on Monday, May 21, 2018 by all of the Judges of the Superior Court for Benton and Franklin Counties.
4. On Monday, May 21, 2018, I was assigned to, personally attended and clerked the Preliminary Hearing Docket with the Honorable Judge Mitchell presiding.
5. On Tuesday, May 22, 2018, I was not assigned to any courtroom proceedings.
6. This action, or any reference to the Matter In Re The Appointment of a Special Deputy Prosecuting Attorney, was not presented and did not come before the Court during any proceeding I attended and clerked on May 21, 2018.

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

SIGNED at Pasco, Washington, this 5 day of June, 2018



SHERISE RODERICK, Deputy Clerk

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
MONDAY, MAY 21, 2018**

BENTON COUNTY:

JUDGE SPANNER				
COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
JURY ASSEMBLY RM:				
Jury Assembly Rm:	8:45	JURY INDOCTRINATION		Theresa
COURTROOM B:	8:30	ST V. NELSON, 17-1-00480-8 (Continuance)	Katie	Theresa
Jury Panel @ 8:00am	8:30	STATE V. MILLER, 15-1-00519-1 (Jury Trial, 3 Days - P/S to 5/29 at 9:00am)	Katie	Theresa
Jury Panel in @ 10:00am	1:15	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
JUDGE SPANNER				
COURTROOM C:	1:15	PRELIMS	Renee	Kerry
	1:30	IN RE GENESIS INVESTMENTS AND SERVICES, 17-2-01071-2 (Non-Jury Trial, 1/2 Day w/AM Read Time)	Renee	Kerry
JUDGE RUNGE				
Jury Assembly Rm:	10:00	JURY INDOCTRINATION		Staci
COURTROOM D:	1:30	PRELIMS		TCM
	3:30	IN RE: RAMIREZ, 18-7-00002-1, 18-7-00003-9, 18-7-00004-7 (Pre-Trial Termination)	Digital	TCM
CHAMBERS				
Chambers:		GMP CASE REVIEW		

BENTON/FRANKLIN COUNTIES JUVENILE:

JUDGE MITCHELL				
COURTROOM #1:	1:30	CRIMINAL DOCKET	Digital	TCM
	2:30	IN RE: BAGLEY, 18-7-50175-11 (Contested At-Risk)	Digital	TCM

FRANKLIN COUNTY:

COMMISSIONER PETERSON				
COURTROOM #1: Spanish Interpreter - Sylvia Garza	8:30	DOMESTIC DOCKET	Digital	Lew
COURTROOM #2: Spanish Interpreter - Sylvia Garza	1:30	ADOPTION DOCKET	Digital	Lew
	1:30	DOMESTIC / DVP DOCKET	Digital	Lew
JUDGE MITCHELL				
Chambers #2:	9:00	CIVIL STATUS CONFERENCES		
COURTROOM #2: Spanish Interpreter - Sylvia Garza	11:00	LOPEZ V. CHAVEZ, 17-2-50193-11 (Entry, 1/2 Hour)	Digital	Lew
COURTROOM #1:	1:00	PRELIMS		Lew
	1:30	PRELIMS (Spanish Interpreter @ Jail - Sylvia)	Joe	Lew
JUDGE MITCHELL				
COURTROOM #1:	2:30	CIVIL DOCKET	Joe	Lew
JUDGE SHEA-BROWN				
Louder Counseling Ctr:	8:15			
Jury Room #1:	9:00	CIVIL SETTLEMENT / PRETRIAL CONF'S		
JUDGE PRO TEM LEDGERWOOD				
Jury Room #1:	2:00	DOMESTIC SETTLEMENT CONFERENCES		
MAIL:				
OUT OF OFFICE: Judge Runge (8-9am), Judge Shea-Brown (PM - business), Brian, Tiffany, Pat (11-1)				

sq
ml
ml
ml
km
km
sk
km
sq

Nicole Joyce

BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
TUESDAY, MAY 22, 2018

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
COURTROOM B: <i>Jury Panel in @ 10:00am</i>	9:00	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
COURTROOM C:	8:15	DOMESTIC DOCKET - OVERTENS	Digital	Theresa
	1:30	DOMESTIC DOCKET - PM	Digital	Theresa
JUDGE SPANNER				
<i>Lourdes Counseling Ctr:</i>	8:15	MENTAL HEALTH HEARINGS (2 Benton, 1 Franklin)		
COURTROOM D:	1:30	EX PARTE DOCKET		TCM
COMMISSIONER PETERSON				
COURTROOM E: <i>Spanish Interpreter - Sylvia Garza</i>	8:15	DOMESTIC STATUS	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	10:30	PATERNITY DOCKET	Digital	Kerry
	1:15	CONTEMPT DOCKET	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	1:30	STATE / PRO SE DOCKET	Digital	Kerry
JUDGE RUNGE				
COURTROOM F:	9:00	STATE V. HAYES, 17-8-000291-6 (Non Jury Trial, 1 Day)	Digital	TCM
	1:15	PRELIMS	Michelle	TCM

BENTON/FRANKLIN COUNTIES JUVENILE: ~ NC

COURTROOM #1:	8:30	DEPENDENCY DOCKET	Digital	TCM
	1:30	DEPENDENCY DOCKET	Digital	TCM

FRANKLIN COUNTY:

JUDGE BURROWS				
COURTROOM #3:	8:30	CRIMINAL DOCKET	Nicole	Lew
JUDGE SHILVA-BROWN				
COURTROOM #1:	1:00			Lew
COURTROOM #3:	1:30	CRIMINAL DOCKET	Joe	Lew

Keyyl Diana for Vazmin

MAIL
 OUT OF OFFICE: Brian

sg

nc

me

FZ me

FILED
FRANKLIN CO CLERK

2018 MAY 22 PM 3:32

MICHAEL J. KILLIAN

BY *JK* DEPUTY

1
2
3
4
5
6 IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

7
8 **IN RE THE APPOINTMENT OF A
SPECIAL DEPUTY PROSECUTING
9 ATTORNEY**

18 250522 11
ORDER OF APPOINTMENT

10 This matter came before the above-entitled Court for consideration of the appointment of
11 a Special Deputy Prosecuting Attorney for Franklin County, pursuant to RCW 36.27.030. The
12 Court makes the following Findings of Fact related thereto:

13 1. In relation to the action entitled *The Judges of the Benton and Franklin Counties*
14 *Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge*
15 *Carrie Runge, Judge Jacqueline Shea-brown, Judge Bruce Spanner and Judge Sam Swanberg,*
16 *Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court,*
17 *Defendants,* Franklin County Superior Court No. 18-2-50285-11, as contemplated by RCW
18 36.27.030, the Prosecuting Attorney of Franklin County is unable to discharge the duties of his
19 office due to a disability arising from the requirements and limitations of Rules of Professional
20 Conduct, Rule 1.7; and

21 2. The Attorney General of the State of Washington has declined to represent the
22 plaintiffs in the action referred to above; and

23 3. W. Dale Kamerrer, WSBA #8218, is a duly admitted and practicing
24 attorney-at-law and resident of the State of Washington, and is qualified to discharge the duties
25 of the Prosecuting Attorney of Franklin County in relation to the above-referenced action, and
26 has been performing the duties of the attorney for the plaintiffs in said action pursuant to

ORDER OF APPOINTMENT - 1

**LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.**
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

SCANNED

1 appointment by the Franklin County Prosecuting Attorney to serve as a Special Deputy
2 Prosecutor; and

3 4. Mr. Kamerrer shall receive such reasonable compensation for the professional
4 services he renders to the plaintiffs as may be fixed and ordered by the court to be paid by
5 Franklin County.

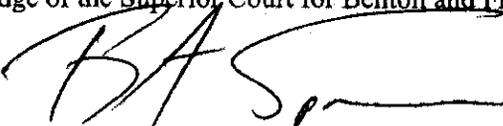
6 Based upon the foregoing Findings of Fact, it is now hereby Ordered:

7 1. W. Dale Kamerrer is hereby Appointed as a Special Deputy Prosecuting Attorney
8 to represent the plaintiffs in the action identified above.

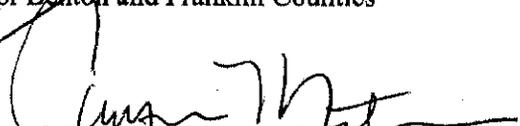
9 2. Payment of compensation for the professional services rendered shall be subject
10 to further order of the court.

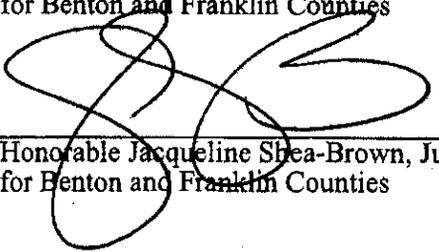
11 Dated this 21st day of May 2018.

12 
13 _____
14 Honorable Alex Ekstrom, Administrative Presiding Judge,
15 Judge of the Superior Court for Benton and Franklin Counties

16 
17 _____
18 Honorable Bruce Spanner, Assistant Administrative Presiding Judge,
19 Judge of the Superior Court for Benton and Franklin Counties

20 
21 _____
22 Honorable Joseph Burrowes, Judge of the Superior Court
23 for Benton and Franklin Counties

24 
25 _____
26 Honorable Cameron Mitchell, Judge of the Superior Court
for Benton and Franklin Counties

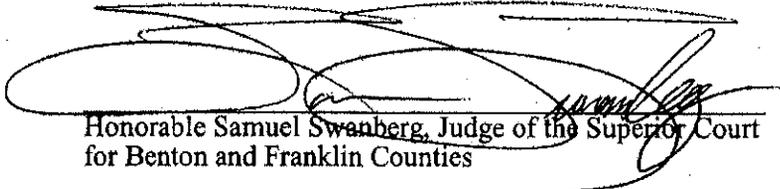


Honorable Jacqueline Shea-Brown, Judge of the Superior Court
for Benton and Franklin Counties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Carrie Runge

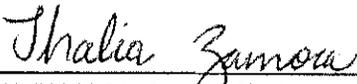
Honorable Carrie Runge, Judge of the Superior Court
for Benton and Franklin Counties


Honorable Samuel Swanberg, Judge of the Superior Court
for Benton and Franklin Counties

6. This action, or any reference to the Matter In Re The Appointment of a Special Deputy Prosecuting Attorney, was not presented and did not come before the Court during any proceeding I attended and clerked on May 22, 2018.

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

SIGNED at Pasco, Washington, this 24th day of May, 2018



THALIA ZAMORA, Deputy Clerk

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
MONDAY, MAY 21, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
Jury Assembly Rm:	8:45	JURY INDOCTRINATION		Theresa
COURTROOM B:	8:30	ST V. NELSON, 17-1-00480-8 (Continuance)	Katie	Theresa
<i>Jury Panel @ 8:00am</i>	8:30	STATE V. MILLER, 15-1-00519-1 (Jury Trial, 3 Days - P/S to 5/29 at 9:00am)	Katie	Theresa
<i>Jury Panel in @ 10:00am</i>	1:15	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
JUDGE SPANNER				
COURTROOM C:	1:15	PRELIMS	Renee	Kerry
	1:30	IN RE GENESIS INVESTMENTS AND SERVICES, 17-2-01071-2 (Non-Jury Trial, 1/2 Day w/AM Read Time)	Renee	Kerry
JUDGE RINGE				
Jury Assembly Rm:	10:00	JURY INDOCTRINATION		Staci
COURTROOM D:	1:30			TCM
	3:30	IN RE: RAMIREZ, 18-7-00002-1, 18-7-00003-9, 18-7-00004-7 (Pre-Trial Termination)	Digital	TCM
Chambers:		GMP CASE REVIEW		

BENTON/FRANKLIN COUNTIES JUVENILE:

COURTROOM #1:	1:30	CRIMINAL DOCKET	Digital	TCM
	2:30	IN RE: BAGLEY, 18-7-50175-11 (Contested At-Risk)	Digital	TCM

FRANKLIN COUNTY:

COMMISSIONER PETERSON				
COURTROOM #1: <i>Spanish Interpreter - Sylvia Garza</i>	8:30	DOMESTIC DOCKET	Digital	Lew
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	1:30	ADOPTION DOCKET	Digital	Lew
	1:30	DOMESTIC / DVP DOCKET	Digital	Lew
JUDGE SHEPHERD				
Chambers #2:	9:00	CIVIL STATUS CONFERENCES		
COURTROOM #2: <i>Spanish Interpreter - Sylvia Garza</i>	11:00	LOPEZ V. CHAVEZ, 17-2-50193-11 (Entry, 1/2 Hour)	Digital	Lew
COURTROOM #1:	1:00			Lew
	1:30	PRELIMS (Spanish Interpreter @ Jail - Sylvia)	Joe	Lew
COURTROOM #1:	2:30	CIVIL DOCKET	Joe	Lew
JUDGE SHEA-BROWN				
Louder Counseling Ctr:	8:15			
Jury Room #1:	9:00	CIVIL SETTLEMENT / PRETRIAL CONF'S		
JUDGE PRO TEM LEDGERWOOD				
Jury Room #1: <i>Nicole Joyce</i>	2:00	DOMESTIC SETTLEMENT CONFERENCES		
MAIL:				
OUT OF OFFICE: Judge Rutledge (8-9am), Judge Shea-Brown (PM - business), Brian, Tiffany, Pat (11-1)				

sq
ml
ml
ml
km
km
km
sq

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
TUESDAY, MAY 22, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
COURTROOM B: <i>Jury Panel in @ 10:00am</i>	9:00	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
COURTROOM C:	8:15	DOMESTIC DOCKET - OVERTENS	Digital	Theresa
	1:30	DOMESTIC DOCKET - PM	Digital	Theresa
JUDGE SPANNER				
<i>Leah's Counseling Ctr:</i>	8:15	MENTAL HEALTH HEARINGS (2 Benton, 1 Franklin)		
COURTROOM D:	1:30	EX PARTE DOCKET		TCM
COMMISSIONER PETERSON				
COURTROOM E: <i>Spanish Interpreter - Sylvia Garza</i>	8:15	DOMESTIC STATUS	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	10:30	PATERNITY DOCKET	Digital	Kerry
	1:15	CONTEMPT DOCKET	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	1:30	STATE / PRO SE DOCKET	Digital	Kerry
JUDGE RINGE				
COURTROOM F:	9:00	STATE V. HAYES, 17-8-000291-6 (Non Jury Trial, 1 Day)	Digital	TCM
	1:15	PRELIMS	Michelle	TCM

BENTON/FRANKLIN COUNTIES JUVENILE:

COURTROOM #1:	8:30	DEPENDENCY DOCKET	Digital	TCM
	1:30	DEPENDENCY DOCKET	Digital	TCM

FRANKLIN COUNTY:

JUDGE BERROWES				
COURTROOM #3:	8:30	CRIMINAL DOCKET	Nicole	Lew
JUDGE SHEV-BROWN				
COURTROOM #1:	1:00			Lew
COURTROOM #3:	1:30	CRIMINAL DOCKET	Joe	Lew

Keyyl Diana For Vazmin

MAIL:
OUT OF OFFICE: Brian

sg

nc

nc

ME

TZ ME

FILED
FRANKLIN CO CLERK
2018 MAY 22 PM 3:32

MICHAEL J. KILLIAN

BY *JK* DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A
SPECIAL DEPUTY PROSECUTING
ATTORNEY

18 250522 11
ORDER OF APPOINTMENT

This matter came before the above-entitled Court for consideration of the appointment of a Special Deputy Prosecuting Attorney for Franklin County, pursuant to RCW 36.27.030. The Court makes the following Findings of Fact related thereto:

1. In relation to the action entitled *The Judges of the Benton and Franklin Counties Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-brown, Judge Bruce Spanner and Judge Sam Swanberg, Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court, Defendants*, Franklin County Superior Court No. 18-2-50285-11, as contemplated by RCW 36.27.030, the Prosecuting Attorney of Franklin County is unable to discharge the duties of his office due to a disability arising from the requirements and limitations of Rules of Professional Conduct, Rule 1.7; and

2. The Attorney General of the State of Washington has declined to represent the plaintiffs in the action referred to above; and

3. W. Dale Kamerrer, WSBA #8218, is a duly admitted and practicing attorney-at-law and resident of the State of Washington, and is qualified to discharge the duties of the Prosecuting Attorney of Franklin County in relation to the above-referenced action, and has been performing the duties of the attorney for the plaintiffs in said action pursuant to

ORDER OF APPOINTMENT - 1

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

SCANNED

1 appointment by the Franklin County Prosecuting Attorney to serve as a Special Deputy
2 Prosecutor; and

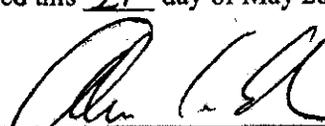
3 4. Mr. Kamerrer shall receive such reasonable compensation for the professional
4 services he renders to the plaintiffs as may be fixed and ordered by the court to be paid by
5 Franklin County.

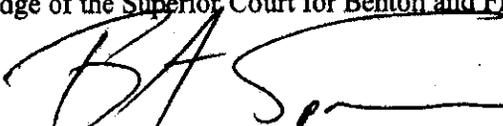
6 Based upon the foregoing Findings of Fact, it is now hereby Ordered:

7 1. W. Dale Kamerrer is hereby Appointed as a Special Deputy Prosecuting Attorney
8 to represent the plaintiffs in the action identified above.

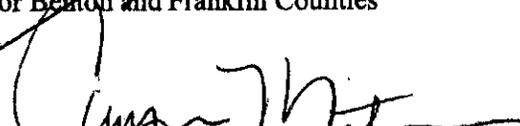
9 2. Payment of compensation for the professional services rendered shall be subject
10 to further order of the court.

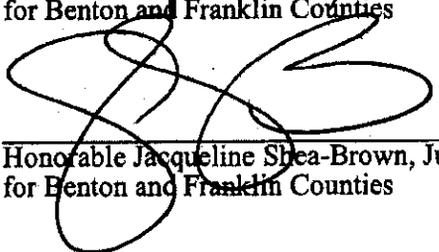
11 Dated this 21st day of May 2018.

12
13 
14 Honorable Alex Ekstrom, Administrative Presiding Judge,
Judge of the Superior Court for Benton and Franklin Counties

15
16 
17 Honorable Bruce Spanner, Assistant Administrative Presiding Judge,
Judge of the Superior Court for Benton and Franklin Counties

18
19 
20 Honorable Joseph Burrowes, Judge of the Superior Court
for Benton and Franklin Counties

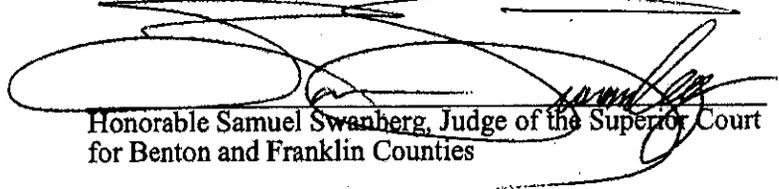
21
22 
23 Honorable Cameron Mitchell, Judge of the Superior Court
for Benton and Franklin Counties

24
25 
26 Honorable Jacqueline Shea-Brown, Judge of the Superior Court
for Benton and Franklin Counties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Carrie Runge

Honorable Carrie Runge, Judge of the Superior Court
for Benton and Franklin Counties


Honorable Samuel Swanberg, Judge of the Superior Court
for Benton and Franklin Counties

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A SPECIAL
DEPUTY PROSECUTING ATTORNEY

)
)
)
)
)

NO. 18-2-50522-11

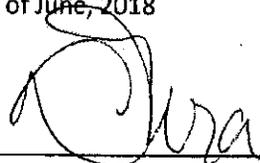
DECLARATION OF DIANA VERA

I, Diana Vera, Superior Court Deputy Clerk for Franklin County, declare as follows:

1. I am competent to testify in all respects, and make this declaration from my personal knowledge.
2. In my capacity as Deputy Clerk, I have been appointed by the Franklin County Clerk and Clerk of the Superior Court, Michael J. Killian and perform the duties of my position on his behalf and at his direction.
3. Attached hereto as exhibits are true and correct copies of the Benton and Franklin Counties Superior Court Daily Schedule for Monday, May 21, 2018 and Tuesday, May 22, 2018, evidencing all Superior Court proceedings in Benton and Franklin Counties; and Order of Appointment, executed on Monday, May 21, 2018 by all of the Judges of the Superior Court for Benton and Franklin Counties.
4. On Monday, May 21, 2018 and Tuesday, May 22, 2018, I was present for work in the Franklin County Clerk's Office; however, I was not assigned to any courtroom proceedings.
5. To the best of my knowledge, this action, or any reference to the Matter In Re The Appointment of a Special Deputy Prosecuting Attorney, was not presented and did not come before the Court during any proceeding held in Franklin County.

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

SIGNED at Pasco, Washington, this 5th day of June, 2018



DIANA VERA, Deputy Clerk

**BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
MONDAY, MAY 21, 2018**

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01880-4 (Jury Trial, 10 Days)	Cheryl	Dick
Jury Assembly Rm:	8:45	JURY INDOCTRINATION		Theresa
COURTROOM B:	8:30	ST V. NELSON, 17-1-00480-8 (Continuance)	Katie	Theresa
Jury Panel @ 8:00am	8:30	STATE V. MILLER, 15-1-00519-1 (Jury Trial, 3 Days - P/S to 5/29 at 9:00am)	Katie	Theresa
Jury Panel in @ 10:00am	1:15	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
JUDGE SPANNER				
COURTROOM C:	1:15	PRELIMS	Renee	Kerry
	1:30	IN RE GENESIS INVESTMENTS AND SERVICES, 17-2-01071-2 (Non-Jury Trial, 1/2 Day w/AM Read Time)	Renee	Kerry
JUDGE RING				
Jury Assembly Rm:	10:00	JURY INDOCTRINATION		Staci
COURTROOM D:	1:30		Digital	TCM
	3:30	IN RE: RAMIREZ, 18-7-00002-1, 18-7-00003-9, 18-7-00004-7 (Pre-Trial Termination)	Digital	TCM
Chambers:		GMP CASE REVIEW		

BENTON/FRANKLIN COUNTIES JUVENILE:

COURTROOM #1:	1:30	CRIMINAL DOCKET	Digital	TCM
	2:30	IN RE: BAGLEY, 18-7-50175-11 (Contested At-Risk)	Digital	TCM

FRANKLIN COUNTY:

COMMISSIONER PETERSON				
COURTROOM #1:	8:30	DOMESTIC DOCKET	Digital	Lew
<i>Spanish Interpreter - Sylvia Garza</i>				
COURTROOM #2:	1:30	ADOPTION DOCKET	Digital	Lew
<i>Spanish Interpreter - Sylvia Garza</i>				
	1:30	DOMESTIC / DVP DOCKET	Digital	Lew
JUDGE SHERRAW				
Chambers #2:	9:00	CIVIL STATUS CONFERENCES		
COURTROOM #2:	11:00	LOPEZ V. CHAVEZ, 17-2-50193-11 (Entry, 1/2 Hour)	Digital	Lew
<i>Spanish Interpreter - Sylvia Garza</i>				
COURTROOM #1:	1:00			Lew
	1:30	PRELIMS (Spanish Interpreter @ Jail - Sylvia)	Joe	Lew
COURTROOM #1:	2:30	CIVIL DOCKET	Joe	Lew
JUDGE SHERRAW				
Jury Room #1:	9:00	CIVIL SETTLEMENT / PRETRIAL CONF'S		
JUDGE PRO TEM LEDGERWOOD				
Jury Room #1:	2:00	DOMESTIC SETTLEMENT CONFERENCES		
<i>Nicole Joyce</i>				
MAIL:				
OUT OF OFFICE: Judge Runge (8-9am), Judge Sherraw (PM - business), Brian, Tiffany, Pat (11-1)				

sq
ml
ml
ml
km
km
sk
km
sq

BENTON AND FRANKLIN COUNTIES SUPERIOR COURT
DAILY SCHEDULE
TUESDAY, MAY 22, 2018

BENTON COUNTY:

COURTROOM A:	9:00	ESTATE CHIN V. CITY RICHLAND, 16-2-01890-4 (Jury Trial, 10 Days)	Ceryl	Dick
COURTROOM B: <i>Jury Panel in @ 10:00am</i>	9:00	STATE V. MILLER, 15-1-00559-0 (Jury Trial, 5 Days)	Katie	Staci
COURTROOM C:	8:15	DOMESTIC DOCKET - OVERTENS	Digital	Theresa
	1:30	DOMESTIC DOCKET - PM	Digital	Theresa
JUDGE SPANNER				
<i>Lawyer Counseling Ctr.</i>	8:15	MENTAL HEALTH HEARINGS (2 Benton, 1 Franklin)		
COURTROOM D:	1:30	EX PARTE DOCKET		TCM
JUDGE SPANNER				
COURTROOM E: <i>Spanish Interpreter - Sylvia Garza</i>	8:15	DOMESTIC STATUS	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	10:30	PATERNITY DOCKET	Digital	Kerry
	1:15	CONTEMPT DOCKET	Digital	Kerry
<i>Spanish Interpreter - Sylvia Garza</i>	1:30	STATE / PRO SE DOCKET	Digital	Kerry
JUDGE SPANNER				
COURTROOM F:	9:00	STATE V. HAYES, 17-8-000291-6 (Non Jury Trial, 1 Day)	Digital	TCM
	1:15	PRELIMS	Michelle	TCM

BENTON/FRANKLIN COUNTIES JUVENILE:

COURTROOM #1:	8:30	DEPENDENCY DOCKET	Digital	TCM
	1:30	DEPENDENCY DOCKET	Digital	TCM

FRANKLIN COUNTY:

JUDGE BIRBOWS				
COURTROOM #2:	8:30	CRIMINAL DOCKET	Nicole	Lew
JUDGE SHEPHERDSON				
COURTROOM #1:	1:00			Lew
COURTROOM #3:	1:30	CRIMINAL DOCKET	Joe	Lew

Kayl Diana for Yazmin

MAIL:
 OUT OF OFFICE: Brian

sg

nc

nc

ME

JZ ME

FILED
FRANKLIN CO CLERK

2018 MAY 22 PM 3:32

MICHAEL J. KILLIAN

BY *JK* DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A
SPECIAL DEPUTY PROSECUTING
ATTORNEY

18 250522 11
ORDER OF APPOINTMENT

This matter came before the above-entitled Court for consideration of the appointment of a Special Deputy Prosecuting Attorney for Franklin County, pursuant to RCW 36.27.030. The Court makes the following Findings of Fact related thereto:

1. In relation to the action entitled *The Judges of the Benton and Franklin Counties Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-brown, Judge Bruce Spanner and Judge Sam Swanberg, Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court, Defendants*, Franklin County Superior Court No. 18-2-50285-11, as contemplated by RCW 36.27.030, the Prosecuting Attorney of Franklin County is unable to discharge the duties of his office due to a disability arising from the requirements and limitations of Rules of Professional Conduct, Rule 1.7; and

2. The Attorney General of the State of Washington has declined to represent the plaintiffs in the action referred to above; and

3. W. Dale Kamerrer, WSBA #8218, is a duly admitted and practicing attorney-at-law and resident of the State of Washington, and is qualified to discharge the duties of the Prosecuting Attorney of Franklin County in relation to the above-referenced action, and has been performing the duties of the attorney for the plaintiffs in said action pursuant to

ORDER OF APPOINTMENT - 1

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

SCANNED

1 appointment by the Franklin County Prosecuting Attorney to serve as a Special Deputy

2 Prosecutor; and

3 4. Mr. Kamerrer shall receive such reasonable compensation for the professional
4 services he renders to the plaintiffs as may be fixed and ordered by the court to be paid by
5 Franklin County.

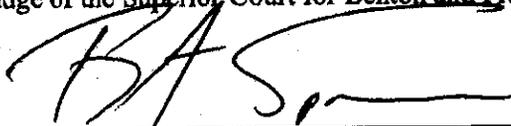
6 Based upon the foregoing Findings of Fact, it is now hereby Ordered:

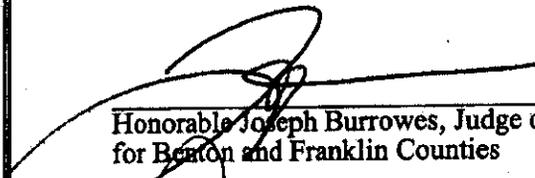
7 1. W. Dale Kamerrer is hereby Appointed as a Special Deputy Prosecuting Attorney
8 to represent the plaintiffs in the action identified above.

9 2. Payment of compensation for the professional services rendered shall be subject
10 to further order of the court.

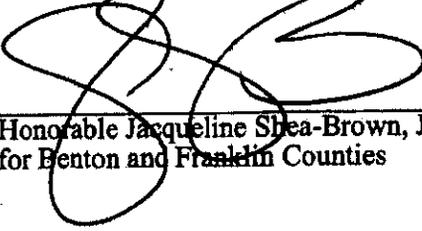
11 Dated this 21st day of May 2018.

12 
13 _____
14 Honorable Alex Ekstrom, Administrative Presiding Judge,
15 Judge of the Superior Court for Benton and Franklin Counties

16 
17 _____
18 Honorable Bruce Spanner, Assistant Administrative Presiding Judge,
19 Judge of the Superior Court for Benton and Franklin Counties

20 
21 _____
22 Honorable Joseph Burrowes, Judge of the Superior Court
23 for Benton and Franklin Counties

24 
25 _____
26 Honorable Cameron Mitchell, Judge of the Superior Court
for Benton and Franklin Counties



Honorable Jacqueline Shea-Brown, Judge of the Superior Court
for Benton and Franklin Counties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Carrie Runge
Honorable Carrie Runge, Judge of the Superior Court
for Benton and Franklin Counties

[Signature]
Honorable Samuel Swanberg, Judge of the Superior Court
for Benton and Franklin Counties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON.

IN AND FOR THE COUNTY OF FRANKLIN

In Re the Appointment of a Special Deputy Prosecuting Attorney) No. 18-2-50522-11
)
) DECLARATION OF AMY FINKE
)
)

STATE OF WASHINGTON)

) ss.

County of Franklin)

I, Amy Finke, Legal Secretary for the Franklin County Prosecuting Attorney's Office, declares as follows:

1. I am competent to testify in all respects, and make this declaration from my personal knowledge.
2. I have been employed at the Franklin County Prosecutor's Office as a Legal Secretary since February, 2016. In my capacity as legal secretary, part of my job duties include sorting mail and correspondence that come into our office. This has been one of job duties since February, 2016, Gail Johnston and Cal Hernandez also have the job duty of sorting the mail and correspondence.
3. On May 24, 2018, I was shown an Order of Appointment on the letterhead of Law, Lyman, Daniel, Kamerrer & Bogdanovich, P.S., appointing a Special Deputy Prosecuting Attorney, file stamped May 22, 2018. This was the first time I had seen the order. I have not seen or processed any correspondence or any court filings, including any notice, summons, motion, order, or proposed order, relating to this matter. To my knowledge, no documents relating to this matter were delivered or served upon our office.

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

06/04/2018 Pasco, WA
Date and Place


Amy Finke

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In Re the Appointment of a Special Deputy) No. 18-2-50522-11
Prosecuting Attorney)
DECLARATION OF CALIXTO HERNANDEZ)
)

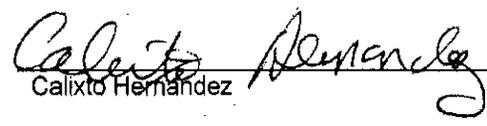
STATE OF WASHINGTON)
) ss.
County of Franklin)

I, Calixto Hernandez, Legal Secretary for the Franklin County Prosecuting Attorney's Office,
declares as follows:

1. I am competent to testify in all respects, and make this declaration from my personal knowledge.
2. I have been employed at the Franklin County Prosecutor's Office as a Legal Secretary since July 2015. In my capacity as legal secretary, part of my job duties include sorting mail and correspondence that come into our office. This has been one of job duties since 2015 and Amy Finke and Gail Johnston have the job duty of sorting the mail and correspondence.
3. On May 24, 2018, I was shown an Order of Appointment on the letterhead of Law, Lyman, Daniel, Kamerrer & Bogdanovich, P.S., appointing a Special Deputy Prosecuting Attorney, file stamped May 22, 2018. This was the first time I had seen the order. I have not seen or processed any correspondence or any court filings, including any notice, summons, motion, order, or proposed order, relating to this matter. To my knowledge, no documents relating to this matter were delivered or served upon our office.

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

June 4, 2018 Pasco, WA
Date and Place


Calixto Hernandez

APPENDIX F

Notice of Appeal/notice of Discretionary Review to the Washington
Supreme Court

1
2
3
4
5
6
7
8 IN THE SUPERIOR COURT FOR FRANKLIN COUNTY, WASHINGTON

9 NO. 18-2-50522-11

10 IN RE THE APPOINTMENT OF A
11 SPECIAL DEPUTY PROSECUTING
12 ATTORNEY

13 NOTICE OF APPEAL/NOTICE OF
14 DISCRETIONARY REVIEW TO THE
15 WASHINGTON SUPREME COURT

16 COME NOW the Franklin County Prosecuting Attorney, Shawn P. Sant, and Franklin
17 County by and through their attorney, Pamela B. Loginsky, Special Deputy Prosecuting Attorney for
18 Franklin County, and seek review by the Washington Supreme Court of the attached Order of
19 Appointment which was signed on May 21, 2018, and filed with the Franklin County Clerk's Office
20 on May 22, 2018.

21 Filing fee is waived pursuant to RCW 2.32.070.

22 DATED this 6th day of June, 2018.

23 

24 PAMELA B. LOGINSKY, WSBA No. 18096
25 Special Deputy Prosecuting Attorney

26 Copies of this notice have been placed in the United States mail in an envelope addressed as follows,
27 with correct postage to the following individuals:

28 W. Dale Kamerrer
Attorney at Law
P.O. Box 11880
Olympia, WA 98508-1880

PROSECUTING ATTORNEY
OF FRANKLIN COUNTY
1016 North 4th Avenue, B328
Pasco, Washington 99301
509-545-2135

FILED
FRANKLIN CO CLERK

2018 MAY 22 PM 3:32

MICHAEL J. KILLIAN

BY DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A
SPECIAL DEPUTY PROSECUTING
ATTORNEY

ORDER OF APPOINTMENT

This matter came before the above-entitled Court for consideration of the appointment of a Special Deputy Prosecuting Attorney for Franklin County, pursuant to RCW 36.27.030. The Court makes the following Findings of Fact related thereto:

1. In relation to the action entitled *The Judges of the Benton and Franklin Counties Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-brown, Judge Bruce Spanner and Judge Sam Swanberg, Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court, Defendants*, Franklin County Superior Court No. 18-2-50285-11, as contemplated by RCW 36.27.030, the Prosecuting Attorney of Franklin County is unable to discharge the duties of his office due to a disability arising from the requirements and limitations of Rules of Professional Conduct, Rule 1.7; and
2. The Attorney General of the State of Washington has declined to represent the plaintiffs in the action referred to above; and
3. W. Dale Kamerrer, WSBA #8218, is a duly admitted and practicing attorney-at-law and resident of the State of Washington, and is qualified to discharge the duties of the Prosecuting Attorney of Franklin County in relation to the above-referenced action, and has been performing the duties of the attorney for the plaintiffs in said action pursuant to

ORDER OF APPOINTMENT - 1

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11886, OLYMPIA, WA 98508-1886
(360) 754-3480 FAX: (360) 357-3511

1 appointment by the Franklin County Prosecuting Attorney to serve as a Special Deputy
2 Prosecutor; and

3 4. Mr. Kamerrer shall receive such reasonable compensation for the professional
4 services he renders to the plaintiffs as may be fixed and ordered by the court to be paid by
5 Franklin County.

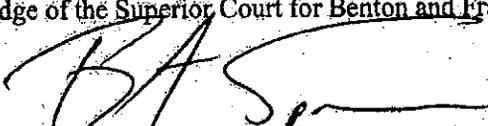
6 Based upon the foregoing Findings of Fact, it is now hereby Ordered:

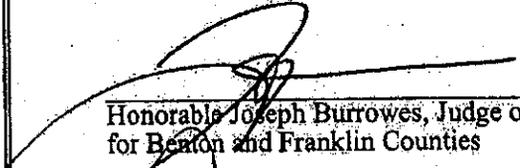
7 1. W. Dale Kamerrer is hereby Appointed as a Special Deputy Prosecuting Attorney
8 to represent the plaintiffs in the action identified above.

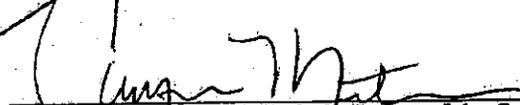
9 2. Payment of compensation for the professional services rendered shall be subject
10 to further order of the court.

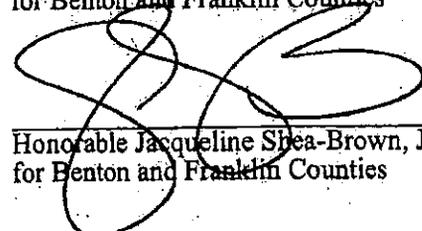
11 Dated this 21st day of May 2018.

12
13 
14 Honorable Alex Ekstrom, Administrative Presiding Judge,
Judge of the Superior Court for Benton and Franklin Counties

15
16 
17 Honorable Bruce Spanner, Assistant Administrative Presiding Judge,
Judge of the Superior Court for Benton and Franklin Counties

18
19 
20 Honorable Joseph Burrowes, Judge of the Superior Court
for Benton and Franklin Counties

21
22 
23 Honorable Cameron Mitchell, Judge of the Superior Court
for Benton and Franklin Counties

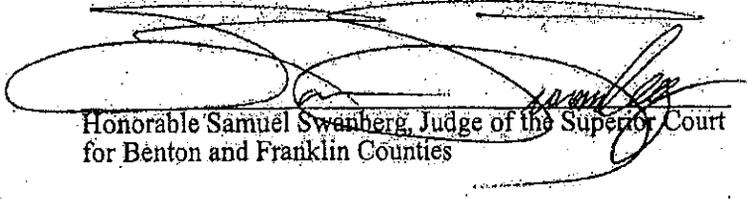
24
25 
26 Honorable Jacqueline Shea-Brown, Judge of the Superior Court
for Benton and Franklin Counties

ORDER OF APPOINTMENT - 2

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Carrie Runge
Honorable Carrie Runge, Judge of the Superior Court
for Benton and Franklin Counties


Honorable Samuel Swenberg, Judge of the Superior Court
for Benton and Franklin Counties

APPENDIX D

Declaration of Shawn P. Sant

Exhibit A, Certificate of Election

Exhibit B, Oath of Office

Exhibit C, Public Official Bond

Exhibit D, Certificate of Good Standing

Exhibit E, Engagement Letter

Exhibit F, W. Dale Kramerrer's Oath of Office

Exhibit G, Communications between Prosecutor Sant
and W. Dale Kramerrer

Exhibit H, W. Dale Kramerrer's letter to the Franklin County Board of
County Commissioners

Exhibit I, Letter Terminating W. Dale Kramerrer's appointment as an
RCW 36.27.040 Special Deputy Prosecuting Attorney

Exhibit J, Order of Appointment

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF FRANKLIN

In Re the Appointment of a Special Deputy Prosecuting Attorney) No. 18-2-50522-11)) DECLARATION OF SHAWN P. SANT)
---	---

STATE OF WASHINGTON) County of Franklin)) ss.)
---	------------

I, Shawn Sant, being first duly sworn on oath, deposes and says:

1. I am competent to testify in all respects, and make this declaration from my personal knowledge.
2. I am the duly elected and qualified Franklin County Prosecutor. I have continuously held office since January 1, 2011, and was reelected in 2014.
3. After each election, I executed an Oath of Office and took office on January 1 of the year following each election.
4. The Franklin County Auditor issued a Certificate of Election to me on November 26, 2014. A true copy of that Certificate of Election is attached to this Affidavit as Exhibit A.
5. I swore an Oath of Office on January 2, 2015. A true copy of that Oath of Office is attached as Exhibit B.

- 1 6. I posted a Public Official Bond on November 17, 2017, which is effective from January 1,
2 2018, through January 1, 2019. A true copy of that Public Official Bond is attached as Exhibit
3 C.
- 4 7. I will renew my bond on a bi-annual basis, as I have done since my first election in 2011.
- 5
- 6 8. I am an active member of the Washington State Bar Association. I was admitted to practice
7 on November 15, 2004, and I am now and have continuously been an attorney in good
8 standing since that date. A true copy of a Certificate of Good Standing issued on May 31,
9 2018, is attached as Exhibit D.
- 10 9. As the Elected Prosecutor, my client is Franklin County.
- 11 10. As the prosecutor, I also provide legal advice to County Officers such as the County Clerk and
12 County judges.
- 13
- 14 11. On February 6, 2018, I appointed a special deputy to represent the Benton-Franklin County
15 Superior Court Judges in an attempt to reach a resolution regarding the judges' demand for
16 paper records. I chose to appoint separate special deputy prosecuting attorneys to each side
17 in the hopes that the clerk and the judges would not feel that I had taken sides for one officer
18 against another. However, I was at all times and continue to be able to discharge my
19 mandatory duties under RCW 36.27.020(2) and continue to provide both the Clerk and the
20 Judges with legal advice.
- 21 12. I appointed W. Dale Kamerrer special deputy to advise the Judges. A true copy of the
22 engagement letter is attached as Exhibit E. A true copy of Mr. Kamerrer's oath of office as
23 special deputy prosecutor is attached is Exhibit F. A true copy of my written communications
24 with Mr. Kamerrer are attached as Exhibit G. I also appointed Heather Yakely as a special
25 deputy prosecutor to advise the Clerk.
- 26 13. On March 21, 2018, Mr. Kamerrer filed a Complaint of Writ of Mandamus against the Franklin
27 County Clerk.
- 28 14. As the Elected Prosecutor, I am not required to initiate or continue a lawsuit on behalf of one
county officer against the county or another county officer. *Fisher v. Clem*, 25 Wn. App. 303,
607 P.2d 326 (1980). Like all elected officials, I am required to operate within the budget set

1 by the Franklin County Board of Commissioners. The Board of County Commissioners
2 (BOCC) separately authorizes funds for each county-initiated lawsuit. The BOCC has
3 repeatedly declined to fund any lawsuit initiated by the judges against the Franklin County
4 Clerk Michael Killian.

5 15. On May 8, 2018, in a regular meeting of the Board of County Commissioners, Mr. Killian
6 advised that he would provide the judges with paper records upon request. Upon hearing
7 this, I was of the legal opinion that the matter was fully resolved and that litigation did not
8 serve the interests of my client, Franklin County.

9 16. On May 21, 2018, I received a courtesy copy of Mr. Kamerrer's letter to the Franklin County
10 Board of County Commissioners, attached here as Exhibit H. The letter expresses an opinion
11 that the deputization of Mr. Kamerrer and Ms. Heather Yakely "brings RCW 36.27.030 into
12 play." The letter states that "the Court will exercise its authority to appoint counsel and
13 compel compensation, with the amount of that compensation being subject to review and
14 approval by the Court."

15 17. On May 22, 2018, I sent Mr. Kamerrer a letter advising that the dispute for which he had been
16 deputized had been resolved and revoking his deputization. It is attached here as Exhibit I.
17 The letter advised that my office lacks authority to sue the County and that I cannot deputize
18 any person to do what I myself am not authorized to do.

19 18. On May 23, 2018, my office received a copy of an Order of Appointment written on the
20 pleading paper of Law, Lyman, Daniel, Kamerrer & Bogdanovich, P.S.. The Order is attached
21 as Exhibit J. This was the first time I had seen this finalized Order or an unsigned copy of the
22 Order. It was the County Clerk who provided the copy. As of the signing of this Affidavit, I
23 have received no communication from either Mr. Kamerrer or the Superior Court judges to
24 advise me of the existence of this Order.

25 19. After receiving the aforementioned Order, I reviewed my email inbox and spam mailbox. In
26 addition, I reviewed my phone for text messages. I have not received any communication
27 from Mr. Kamerrer or anyone else which could serve to give me notice of a date, time, or
28 location for a hearing prior to entry of this Order of Appointment. I have not had an
opportunity to respond to the allegation of disability under RCW 36.27.030.

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

3 June 5, 2018 Pasco, WA
4 Date and Place

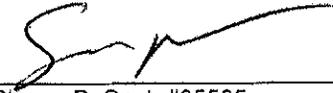

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28 Shawn P. Sant, #35535

Exhibit A



FRANKLIN COUNTY

To **Richard B. Smith**

Clerk

This is to certify that at the General Election held in said County and State on the 4th day of November A.D. 1914 you received the highest number of votes cast for the office of

Prosecuting Attorney

and to the County of Franklin, State of Wisconsin and were therefore duly elected to said office as follows: **Number of legal election returns and votes cast for said office**

Richard B. Smith 14

Richard B. Smith

1914

Exhibit B

STATE OF WASHINGTON,

OATH OF OFFICE

County of Franklin

I, Shawn P. Sant do solemnly swear
(or affirm) that I will support the Constitution of the United States and the Constitution and laws of
the State of Washington, and that I will faithfully and impartially perform and discharge the
duties of the office of Prosecuting Attorney

_____ according to law, to the best of my ability.

Shawn P. Sant

Subscribed and sworn to before me this

2 day of January, 2015.

[Signature]
or any other person empowered to administer oaths.

BRUCE A. SPANNER

Exhibit C



Jackie J Fenton
1501 Fourth Avenue, Suite 1000
SEATTLE, WA 98101

VERIFICATION CERTIFICATE

License No. N/A

Bond No.: 105546844

THIS IS TO CERTIFY that the above referenced Bond, issued by

Travelers Casualty and Surety Company of America, dated
January 4, 2011, in the amount of Five Thousand
(\$5,000.00) on behalf of

Shawn P. Sant (as Principal),
and in favor of Franklin County (as Oblige),
remains in effect, subject to all agreements, conditions and limitations.

Signed, sealed and dated November 17, 2016

Travelers Casualty and Surety Company of America

By:

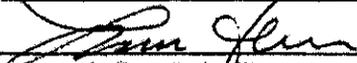

Attorney-in-Fact Luisa Thom

Exhibit D

Exhibit E

GUY BOGDANOVICH *
DON G. DANIEL
JOHN E. JUSTICE *
W. DALE KAMERRER
DONALD L. LAW
ELIZABETH A. MCINTYRE *
JEFFREY S. MYERS
JULIE K. CARRIGAN

JOCELYN LYMAN, of counsel
*Admitted in WA & OR

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.

ATTORNEYS AT LAW
(360) 754-3480 FAX: (360) 357-3511

Mailing Address:
P.O. BOX 11880
OLYMPIA, WA 98508

Street Address:
2674 RW JOHNSON BLVD SW
TUMWATER, WA 98512

February 6, 2018

Shawn P. Sant
Franklin County Prosecuting Attorney
1016 N. 4th Ave.
Pasco, WA 99301

Re: Representation of Franklin County Superior Court in County Clerk Matter

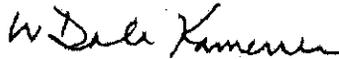
Dear Shawn:

This is my engagement letter for the above-referenced matter. I understand and agree that I am being retained to represent the Franklin County Superior Court, to analyze and advise, negotiate and represent in legal proceedings if necessary, the Court as to issues surrounding the Court's local rule requiring the County Clerk to maintain paper records of proceedings in the Franklin County Superior Court.

My hourly rate for legal services such as this is \$225.00. I also bill for postage, printing and commercial travel expenses, if any. I will present detailed billings monthly to you or whomever you designate, and I request payment within thirty days after receipt.

I understand you will be making a special deputy appointment of me after you receive confirmation from the Court that they wish to retain me. When that is decided, please sign the acknowledgment below and return a copy to me. I expect to be working on the issues involved in this matter by tomorrow.

Very truly yours,
LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.


W. Dale Kamerrer

Acknowledged and agreed to this 7th day of February, 2018:

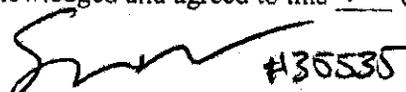

#35535
Shawn Sant, Franklin County Prosecuting Attorney

Exhibit F

STATE OF WASHINGTON)
) ss.
County of Franklin)

OATH OF OFFICE

I, William Dale Kammerer, do solemnly swear that I am a Citizen of the United States and of the State of Washington; that I will support the Constitution and Laws of the United States and the Constitution and laws of the State of Washington, and will to the best of my judgment, skill and ability, truly, faithfully, diligently and impartially perform the duties of the office of the Franklin County Prosecutor as a Special Deputy Prosecutor in and for Franklin County, Washington, as such duties are prescribed by law, so help me God.

W Dale Kammerer

Subscribed and sworn to before me this 6th day of Feb., 2018.

[Signature]

Elizabeth A. McIntyre

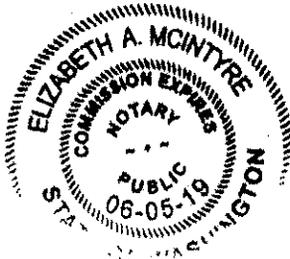


Exhibit G

Adriana Orozco

From: Dale Kamerrer <dkamerrer@ldkb.com>
Sent: Wednesday, March 21, 2018 3:30 PM
To: Shawn Sant
Subject: Franklin County Judges vs. Clerk
Attachments: Clerk Letter.pdf; Summons.pdf; Complaint.pdf; Motion for Order to SC.pdf; Declaration J
Spanner.pdf

**PRIVILEGED & CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION
EXEMPT FROM INSPECTION, DISCLOSURE AND PRODUCTION**

Shawn:

Attached are copies of the pleadings I have filed today on behalf of the judges.

Dale Kamerrer
Law, Lyman, Daniel, Kamerrer
& Bogdanovich, P.S.
P.O. Box 11880
Olympia, WA 98508-1880
(360) 754-3480
(360) 357-3511 fax

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

This e-mail message is protected by the Electronic Communications Privacy Act, 18 U.S.C. §2510-2521 and is legally privileged. Unauthorized review, use or distribution is prohibited. Interception of this e-mail is a violation of federal criminal law.

This office does not accept service of process via email or fax without prior authorization.

GUY BOGDANOVICH *
DON G. DANIEL
JOHN E. JUSTICE *
W. DALE KAMERRER
ELIZABETH A. MCINTYRE *
JEFFREY S. MYERS
JULIE K. CARIGNAN

DONALD LAW, of counsel
JOCELYN LYMAN, of counsel
*Admitted in WA & OR

**LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.**

ATTORNEYS AT LAW

(360) 754-3480 FAX: (360) 357-3511

Mailing Address:
P.O. BOX 11880
OLYMPIA, WA 98508

Street Address:
2674 RW JOHNSON BLVD SW
TUMWATER, WA 98512

March 20, 2018

Franklin County Clerk
Room B 306
1016 N. 4th Ave.
Pasco, WA 99301

Re: *The Judges of Benton and Franklin Counties Superior Court vs. Michael J. Killian,
Franklin County Clerk, and Clerk of the Superior Court*

Dear Clerk's Office:

For this original civil filing, please file the documents enclosed in the following order:

1. Summons;
2. Complaint for Writ of Mandamus;
3. Motion for Order to Show Cause Why a Writ of Mandamus Should Not Issue to the Franklin County Clerk;
4. Declaration of Judge Bruce A. Spanner in Support of Complaint for Writ of Mandamus; and
5. Certificate of Mailing.

Also enclosed is our check in the sum of \$240.00 for the filing fee.

Duplicate copies of the foregoing are also enclosed together with a stamped return envelope. Please conform the copies and return them to this office in that envelope. Thank you.

Very truly yours,
LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.

W Dale Kamerrer

W. Dale Kamerrer
dkamerrer@LLDKB.com

WDK:bs
Enclosures

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

THE JUDGES OF THE BENTON AND
FRANKLIN COUNTIES SUPERIOR
COURT: JUDGE JOE BURROWES, JUDGE
ALEX EKSTROM, JUDGE CAMERON
MITCHELL, JUDGE CARRIE RUNGE,
JUDGE JACQUELINE SHEA-BROWN,
JUDGE BRUCE SPANNER AND JUDGE
SAM SWANBERG,

NO.
SUMMONS

Plaintiffs,

vs.

MICHAEL KILLIAN, FRANKLIN COUNTY
CLERK AND CLERK OF THE SUPERIOR
COURT,

Defendants,

**TO THE DEFENDANTS: MICHAEL KILLIAN, FRANKLIN COUNTY CLERK AND
CLERK OF THE SUPERIOR COURT:**

A lawsuit has been started against you in the above entitled court by Plaintiffs.
Plaintiffs' claim is stated in the written Complaint, a copy of which is served upon you with this
Summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your
defense in writing and by serving a copy upon the person signing this summons within 20 days
after service of this summons (or within 60 days after the service of this summons, if you were
served outside of the State of Washington), excluding the day of service, or a default judgment
may be entered against you without notice. A default judgment is one where plaintiff is entitled

SUMMONS - 1
Cause No.:

**LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.**
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

1 to what he/she asks for because you have not responded. If you serve a notice of appearance on
2 the undersigned person, you are entitled to notice before a default judgment may be entered.

3 You may demand that Plaintiffs file this lawsuit with the Court. If you do so, the
4 demand must be in writing and must be served upon the person signing this Summons and
5 Complaint. Within fourteen (14) days after you serve the demand, Plaintiffs must file this
6 lawsuit with the Court, or the service on you of this Summons and Complaint will be void. If
7 you wish to seek the advice of an attorney in this matter, you should do so promptly so that your
8 written response, if any, may be served on time.

9 This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State
10 of Washington.

11 Dated this 19th day of March 2018.

12 LAW, LYMAN, DANIEL,
13 KAMERRER & BOGDANOVICH, P.S.

14 
15 W. Dale Kamerrer, WSBA No. 8218
16 Attorneys for Plaintiffs

17
18
19
20
21
22
23
24
25
26
SUMMONS - 2

Cause No.:

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

1
2
3
4
5
6 IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

7
8 THE JUDGES OF THE BENTON AND
9 FRANKLIN COUNTIES SUPERIOR
10 COURT: JUDGE JOE BURROWES, JUDGE
11 ALEX EKSTROM, JUDGE CAMERON
12 MITCHELL, JUDGE CARRIE RUNGE,
13 JUDGE JACQUELINE SHEA-BROWN,
14 JUDGE BRUCE SPANNER AND JUDGE
15 SAM SWANBERG,

16 Plaintiffs,

17 vs.

18 MICHAEL J. KILLIAN, FRANKLIN
19 COUNTY CLERK AND CLERK OF THE
20 SUPERIOR COURT,

21 Defendant.

NO.

COMPLAINT FOR WRIT OF
MANDAMUS

22 I. PARTIES & JURISDICTION

23 1.1 Plaintiffs are the Washington Constitution Article IV, Section 6, Judges of the Benton &
24 Franklin Counties Superior Court. They are empowered by Wash. Const. Art. IV, Sec. 24 to establish
25 uniform rules for the government of the superior courts, and they are authorized by the Rules of General
26 Application, GR 7(a), 7(e)(2), and Civil Rules for Superior Court, CR 83 of the Washington Court
Rules, to make and enforce local rules and emergency rules of the superior court.

1.2 Defendant is Michael J. Killian, the Franklin County Clerk, a resident of Franklin
County, who, by virtue of his office, is the clerk of the superior court for Franklin County.

COMPLAINT FOR WRIT OF MANDAMUS -- 1
Cause No.:

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98509-1880
(360) 754-3480 FAX: (360) 357-3311

1 1.3 Jurisdiction over the claims herein exists by virtue of Wash. Const. Art. IV, Sec. 6, and
2 RCW 7.16.160.

3 1.4 Jurisdiction over the defendant exists pursuant to RCW §§ 4.12.020 and 4.12.025.

4 1.5 Venue in the Franklin County Superior Court is proper.
5

6 II. STATEMENT OF FACTS

7 2.1 Michael J. Killian announced in December of 2017, that he would operate a "paperless"
8 office and would no longer maintain paper files of Franklin County Superior Court cases and files.

9 2.2 Plaintiffs adopted a local rule of court (Local General Rule 3), requiring the Benton and
10 Franklin Counties clerks to keep and maintain paper files for all cases and file types, by forthwith filing
11 all pleadings and papers in paper files, except as may be otherwise authorized in writing by the Superior
12 Court. Copies of LGR 3 and its supporting Judicial Resolution (No. 18-001), and related Order, are
13 provided as Exhibits A, B & C to the Declaration of Judge Bruce Spanner, filed with plaintiffs'
14 contemporaneous Motion for Order to Show Cause, and the same are incorporated herein as if fully set
15 forth.
16

17 2.3 The plaintiffs directed the defendants to continue keeping and maintaining paper files
18 until such time as the Court can assure that a paperless system will allow it to effectively serve the Court
19 and the community. Michael J. Killian has refused the plaintiffs' direction.
20

21 III. CAUSE OF ACTION AND RELIEF REQUESTED

22 3.1 The superior court clerk is required to file all papers delivered to him for that purpose in
23 any action or proceeding in the court as directed by court rule or statute, pursuant to RCW 2.32.050(4);
24 and in the performance of his duties, to conform to the direction of the court, pursuant to RCW
25 2.32.050(9).
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

THE JUDGES OF THE BENTON AND
FRANKLIN COUNTIES SUPERIOR
COURT: JUDGE JOE BURROWES, JUDGE
ALEX EKSTROM, JUDGE CAMERON
MITCHELL, JUDGE CARRIE RUNGE,
JUDGE JACQUELINE SHEA-BROWN,
JUDGE BRUCE SPANNER AND JUDGE
SAM SWANBERG,

Plaintiffs,

vs.

MICHAEL KILLIAN, FRANKLIN COUNTY
CLERK AND CLERK OF THE SUPERIOR
COURT,

Defendants,

NO.

MOTION FOR ORDER TO SHOW
CAUSE WHY A WRIT OF MANDAMUS
SHOULD NOT ISSUE TO THE
FRANKLIN COUNTY CLERK

I. RELIEF REQUESTED

Plaintiffs move the court for an order directing Michael Killian, Franklin County Clerk and Clerk of the Superior Court, to appear before the court on a date, time and place to be set by the Court and show cause why the writ of mandamus sought in the plaintiffs' Complaint should not be issued compelling him to comply with his legal duty imposed by State law and local rule of court to maintain and provide the Superior Court with paper copies of all files of the Court held by him as the Superior Court Clerk.

II. STATEMENT OF FACTS

As explained in the Declaration of Judge Bruce A. Spanner, filed herewith, the judges of the Benton and Franklin Counties Superior Court issued an emergency order and rule of court

MOTION FOR ORDER TO SHOW CAUSE WHY A WRIT OF
MANDAMUS SHOULD NOT ISSUE TO THE FRANKLIN
COUNTY CLERK - 1

Cause No.: 15-2-00052-9

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-9460 FAX: (360) 357-3511

1 requiring the Franklin County Clerk to keep and maintain paper copies of superior court files
2 until such time as the Court concludes that the Odyssey electronic filing system is fully reliable
3 and fully accessible to judicial users. These mandatory directions came only after the judges
4 sought to cooperatively work with the Clerk through the Court Administrator to develop work
5 flow processes utilizing a paperless system before eliminating judicial officers' access to paper
6 files. Without receiving the consent of the Court, the Clerk announced that his office would
7 convert to a fully paperless system as of January 2, 2018, and he has refused to comply with the
8 directions set forth in Local General Rule 3. (Exhibit C to the Spanner declaration.)

9 The Judicial Resolution, related Order and Local Rule of Court are submitted with the
10 Declaration of Judge Bruce A. Spanner as Exhibits A, B and C. They are clear and unequivocal
11 in requiring the clerks of Benton and Franklin Counties to keep and maintain paper files for all
12 cases and file types.¹

13 III. STATEMENT OF THE ISSUES

14 The following issues are presented for resolution by the court:

15 1. Is the Franklin County Clerk required to comply with Benton-Franklin Counties
16 Superior Court Local General Rule 3?

17 Answer: Yes.

18 2. Is this an appropriate case for an Order to Show Cause requiring the Franklin county
19 Clerk to appear and show why a Writ of Mandamus should not be issued requiring him to
20 comply with Local General Rule 3?

21 Answer: Yes.

22 IV. EVIDENCE RELIED UPON

23 This motion is based on the declaration of Judge Bruce Spanner, filed herewith, together
24 with the exhibits thereto.

25 _____
26 ¹The Benton County Clerk has not refused to maintain paper files, and is not a party to this action.

1 V. LEGAL AUTHORITY

2 A. The Superior Court is Legally Entitled to Direct the Manner in Which Court Files
3 will be Maintained.

4 Article IV, Section 26 of the Washington Constitution provides that the “county clerk
5 shall be by virtue of his office, clerk of the superior court.” Clerks are delegated the task of
6 keeping the records, files, and other books and papers appertaining to the court pursuant to
7 RCW 2.32.050(3), Laws of 1891, ch. 57, §3(9), and RCW 36.23.030. (See Appendices A - C.)

8 Along with the superior court clerks’ statutorily assigned duty to maintain the superior
9 court’s records, “[t]he superior court ‘has power... [t]o control, in furtherance of justice, the
10 conduct of its ministerial officers,’ such as county clerks. RCW 2.28.010(5) (Appendix D); *In*
11 *Re Recall of Riddle*, 189 Wn.2d 565, 583, 403 P.3d 849 (2017). As the Washington Supreme
12 Court pointed out in *Riddle*:

13 [t]he duties of a county clerk as clerk of the superior court are defined both *by statute*
14 *and court rules*. Generally speaking, a clerk of court is an officer of a court of justice,
15 who attends to the clerical portion of its business, and who has custody of its records and
files and of its seal. Such an office is essentially *ministerial* in its nature, and the clerk is
neither the court nor a judicial officer.

16 *Swanson v. Olympic Peninsula Motor Coach Co.*, 190 Wash. 35, 38, 66 P.2d 842 (1937)
17 (emphasis in *Riddle*). “Therefore, when acting as the clerk of the superior court, the county
18 clerk has always been required ‘[i]n the performance of his or her duties to conform to the
19 direction of the court.’” *Riddle*, 189 Wn.2d at 583 (citing RCW 2.32.050(9), and Laws of 1891,
20 ch. 57, §3(9)).

21 Article IV, Sec. 24, Wash. Const. provides that “judges of the superior courts, shall from
22 time to time, establish uniform rules for the government of the superior courts.” Pursuant to
23 Washington Court Rules, GR 7(e), the superior courts are authorized to adopt local rules,
24 including emergency rules. By Civil Rule CR 83, the Supreme Court has authorized each
25 superior court to “make and amend local rules governing its practice not inconsistent with these
26 rules.”

MOTION FOR ORDER TO SHOW CAUSE WHY A WRIT OF
MANDAMUS SHOULD NOT ISSUE TO THE FRANKLIN
COUNTY CLERK - 3

Cause No.: 15-2-00052-9

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

1 The Attorney General has opined that the superior courts may adopt a local rule that
2 directs the manner in which the county clerk will file pleadings and other documents in the court
3 file. Op. Atty. Gen. 2001, No. 6 (September 10, 2001) (Appendix D), *citing* Const. Art. IV, §24,
4 RCW §§ 2.32.050, 2.04.210, & 2.08.230, *et al.*

5 No statute, rule or judicial decision authorizes county clerks acting as the superior court
6 clerk to dictate how judicial officers of the superior court will conduct their hearings and other
7 proceedings or how they will access and use the files of the court maintained by the clerk.

8 The law is clear and unequivocal: the superior court clerk is required to comply with a
9 rule or order of the superior court governing the keeping and maintaining of the records of the
10 court. Accordingly, the requested order to show cause should be issued.

11 B. Proceeding by an Order to Show Cause is Appropriate.

12 RCW 2.28.150 provides:

13 When jurisdiction is, by the Constitution of this state, or by statute, conferred on a court
14 or judicial officer all the means to carry it into effect are also given; and in the exercise
15 of the jurisdiction, if the course of proceeding is not specifically pointed out by statute,
any suitable process or mode of proceeding may be adopted which may appear most
conformable to the spirit of the laws.

16 The plaintiffs have proceeded through their Complaint and by this motion for an order to
17 show cause because the legal duty of the Clerk of the Superior Court is clear and unequivocal,
18 and because delay in enforcing that duty will impair operations of the Franklin County Superior
19 Court. This procedure affords due process to the parties and promotes an early and economical
20 resolution of the issues, in furtherance of Rules for Superior Court, CR 1, which provides:

21 These rules govern the procedure in the superior court in all suits of a civil nature
22 whether cognizable as cases at law or in equity with the exceptions stated in rule 81.
*They shall be construed and administered to secure the just, speedy, and inexpensive
determination of every action.*

23 (Emphasis added.) *State ex rel. Burleigh v. Johnson*, 31 Wn. App. 704, 707, 644 P.2d 732
24 (1982) (upholding the show cause process in support enforcement actions).

25
26
MOTION FOR ORDER TO SHOW CAUSE WHY A WRIT OF
MANDAMUS SHOULD NOT ISSUE TO THE FRANKLIN
COUNTY CLERK - 4

Cause No.: 15-2-00052-9

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-9480 FAX: (360) 357-3511

1 Proceeding by an order to show cause is an alternative to proceeding by an order of
2 contempt. RCW 2.28.010(4) & (5) (Appendix E) provide that the court's contempt power
3 includes actions to "compel obedience to its judgments, decrees, orders and process" and to
4 "control, in furtherance of justice, the conduct of its ministerial officers". See 2001 AGO No. 6,
5 at p. 4 (Appendix D). The Order of the Superior Court of Benton and Franklin Counties,
6 supplied as Exhibit B to the Declaration of Judge Bruce A. Spanner, provides a basis for such a
7 contempt proceeding and enforcement. The plaintiffs prefer the show cause procedure for its
8 non-punitive nature.

9 VI. PROPOSED ORDER

10 A proposed Order to Show Cause and a proposed Writ of Mandamus will be supplied
11 with the bench and counsel copies of this motion. The Order to Show Cause requires
12 establishing a date and time for hearing the motion at the Court's discretion. The plaintiffs
13 encourage its setting at the earliest hearing date available to the Court.

14 Respectfully submitted this 19th day of March, 2018.

15 LAW, LYMAN, DANIEL,
16 KAMERRER & BOGDANOVICH, P.S.

17 W Dale Kamerrer
18 W. Dale Kamerrer, WSBA No 8218
19 Attorney for Plaintiffs
20
21
22
23
24
25
26

MOTION FOR ORDER TO SHOW CAUSE WHY A WRIT OF
MANDAMUS SHOULD NOT ISSUE TO THE FRANKLIN
COUNTY CLERK - 5

Cause No.: 15-2-00052-9

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

West's Revised Code of Washington Annotated
Title 2. Courts of Record (Refs & Annos)
Chapter 2.32. Court Clerks, Reporters, and Bailiffs (Refs & Annos)

West's RCWA 2.32.050

2.32.050. Powers and duties of court clerks

Effective: July 23, 2017
Currentness

The clerk of the supreme court, each clerk of the court of appeals, and each clerk of a superior court, has power to take and certify the proof and acknowledgment of a conveyance of real property, or any other written instrument authorized or required to be proved or acknowledged, and to administer oaths in every case when authorized by law; and it is the duty of the clerk of the supreme court, each clerk of the court of appeals, and of each county clerk for each of the courts for which he or she is clerk:

- (1) To keep the seal of the court and affix it in all cases where he or she is required by law;
- (2) To record the proceedings of the court;
- (3) To keep the records, files, and other books and papers appertaining to the court;
- (4) To file all papers delivered to him or her for that purpose in any action or proceeding in the court as directed by court rule or statute;
- (5) To attend the court of which he or she is clerk, to administer oaths, and receive the verdict of a jury in any action or proceeding therein, in the presence and under the direction of the court;
- (6) To keep the minutes of the proceedings of the court, and, under the direction of the court, to enter its orders, judgments, and decrees;
- (7) To authenticate by certificate or transcript, as may be required, the records, files, or proceedings of the court, or any other paper appertaining thereto and filed with him or her;
- (8) To exercise the powers and perform the duties conferred and imposed upon him or her elsewhere by statute;
- (9) In the performance of his or her duties to conform to the direction of the court;
- (10) To publish notice of the procedures for inspection of the public records of the court.

2.32.050. Powers and duties of court clerks, WA ST 2.32.050

Credits

[2017 c 183 § 1, eff. July 23, 2017; 2011 c 336 § 45, eff. July 22, 2011; 1981 c 277 § 1; 1971 c 81 § 12; 1891 c 57 § 3; RRS § 77. Prior: Code 1881 §§ 2180, 2182, 2184.]

West's RCWA 2.32.050, WA ST 2.32.050

The statutes are current through Chapter 3 of the 2018 Regular Session of the Washington legislature.

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.

SESSION LAWS

OF THE

STATE OF WASHINGTON

SESSION OF 1891.

COMPILED IN CHAPTERS, WITH MARGINAL NOTES,
BY ALLEN WEIR, SECRETARY OF STATE.

PUBLISHED BY AUTHORITY.

OLYMPIA, WASH.:
O. C. WHITE, STATE PRINTER.
1891.

APPENDIX B

CHAPTER LVII.

[S. B. No. 100.]

POWERS AND DUTIES OF CLERKS OF COURTS.

AN ACT in relation to the powers and duties of clerks of courts.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. The office of the clerk of the superior court shall be kept at the county seat of the county of which he is clerk.

Office hours.

SEC. 2. Each clerk of a superior court shall keep his office open for the transaction of business on every judicial day, from eight to twelve in the forenoon and from one to five in the afternoon.

Seat.

Record.

SEC. 3. The clerk of the supreme court, and each clerk of a superior court, has power to take and certify the proof and acknowledgment of a conveyance of real property, or any other written instrument authorized or required to be proved or acknowledged, and to administer oaths in every case when authorized by law; and it is the duty of the clerk of the supreme court and of each county clerk for each of the courts for which he is clerk—1. To keep the seal of the court and affix it in all cases where he is required by law. 2. To record the proceedings of the court. 3. To keep the records, files and other books and papers appertaining to the court. 4. To file all papers delivered to him for that purpose in any action or proceeding in the court. 5. To attend the court of which he is clerk, to administer oaths, and receive the verdict of a jury in any action or proceeding therein, in the presence and under the direction of the court. 6. To keep the journal of the proceedings of the court, and, under the direction of the court, to enter its orders, judgments and decrees. 7. To authenticate by certificate or transcript, as may be required, the records, files or proceedings of the court, or any other paper appertaining thereto and filed with him. 8. To exercise the powers and perform the duties conferred and imposed upon him elsewhere by statute. 9. In the performance of his duties to conform to the direction of the court.

To authenticate records.

SEC. 4. The clerk of the supreme court, and each clerk

of a superior court, may have one or more deputies, to be ^{Deputies.} appointed by such clerk in writing and to continue during his pleasure. Such deputies have the power to perform any act or duty relating to the clerk's office that their respective principals have, and their respective principals are responsible for their conduct.

SEC. 5. Each clerk of a court is prohibited during his continuance in office from acting, or having a partner who acts, as an attorney of the court of which he is clerk.

Approved February 26, 1891.

CHAPTER LVIII.

[S. B. No. 105.]

MANNER OF COMMENCING CIVIL ACTIONS.

AN ACT relating to the manner of commencing civil actions.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Civil actions in the superior courts shall be commenced by filing a complaint with the clerk of the court. The clerk shall, at the time the complaint is delivered to him to be filed, indorse thereon a certificate of the filing thereof, showing the date of such filing. ^{Filing complaint.}

SEC. 2. At any time after the complaint is filed, the clerk must, upon request of the plaintiff, issue a summons. ^{Summons} The summons shall run in the name of the State of Washington, shall be directed to the defendant, shall set forth the name of the court in which the action is commenced, and the name[s] of the parties, plaintiff and defendant, and shall require the defendant to appear in said court and answer the complaint, and contain a notice that unless the defendant appear and answer within the time prescribed by law, the plaintiff will apply to the court for the relief demanded in the complaint. It shall be signed by the clerk, and have the seal of the court affixed. It may be substantially in the following form:

West's Revised Code of Washington Annotated
Title 36. Counties (Refs & Annos)
Chapter 36.23. County Clerk (Refs & Annos)

West's RCWA 36.23.030

36.23.030. Records to be kept

Effective: July 22, 2011

Currentness

The clerk of the superior court at the expense of the county shall keep the following records:

- (1) A record in which he or she shall enter all appearances and the time of filing all pleadings in any cause;
- (2) A docket in which before every session, he or she shall enter the titles of all causes pending before the court at that session in the order in which they were commenced, beginning with criminal cases, noting in separate columns the names of the attorneys, the character of the action, the pleadings on which it stands at the commencement of the session. One copy of this docket shall be furnished for the use of the court and another for the use of the members of the bar;
- (3) A record for each session in which he or she shall enter the names of witnesses and jurors, with time of attendance, distance of travel, and whatever else is necessary to enable him or her to make out a complete cost bill;
- (4) A record in which he or she shall record the daily proceedings of the court, and enter all verdicts, orders, judgments, and decisions thereof, which may, as provided by local court rule, be signed by the judge; but the court shall have full control of all entries in the record at any time during the session in which they were made;
- (5) An execution docket and also one for a final record in which he or she shall make a full and perfect record of all criminal cases in which a final judgment is rendered, and all civil cases in which by any order or final judgment the title to real estate, or any interest therein, is in any way affected, and such other final judgments, orders, or decisions as the court may require;
- (6) A record in which shall be entered all orders, decrees, and judgments made by the court and the minutes of the court in probate proceedings;
- (7) A record of wills and bonds shall be maintained. Originals shall be placed in the original file and shall be preserved or duplicated pursuant to RCW 36.23.065;
- (8) A record of letters testamentary, administration, and guardianship in which all letters testamentary, administration, and guardianship shall be recorded;

36.23.030. Records to be kept, WA ST 36.23.030

(9) A record of claims shall be entered in the appearance docket under the title of each estate or case, stating the name of each claimant, the amount of his or her claim and the date of filing of such;

(10) A memorandum of the files, in which at least one page shall be given to each estate or case, wherein shall be noted each paper filed in the case, and the date of filing each paper;

(11) A record of the number of petitions filed for restoration of the right to possess a firearm under chapter 9.41 RCW and the outcome of the petitions;

(12) Such other records as are prescribed by law and required in the discharge of the duties of his or her office.

Credits

[2011 c 193 § 3, eff. July 22, 2011; 2002 c 30 § 1; 1987 c 363 § 3; 1967 ex.s. c 34 § 2; 1963 c 4 § 36.23.030. Prior: (i) 1923 c 130 § 1; Code 1881 § 2179; 1863 p 417 § 6; 1854 p 366 § 6; RRS § 75. (ii) 1917 c 156 § 2; RRS § 1372. (iii) 1917 c 156 § 57; Code 1881 § 1384; 1863 p 219 § 118; 1860 p 181 § 85; RRS § 1427. (iv) 1917 c 156 § 72; Code 1881 § 1411; 1863 p 221 § 130; 1860 p 183 § 97; RRS § 1442.]

West's RCWA 36.23.030, WA ST 36.23.030

The statutes are current through the 2017 Third Special Session of the Washington legislature.

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.



Published on *Washington State* (<http://www.atg.wa.gov>)

[Home](#) > Authority of superior court to impose filing deadline on county clerk

Attorney General Christine Gregoire

**COURTS – SUPERIOR COURT – COUNTY CLERK – COUNTIES –
Authority of superior court to impose filing deadline on county clerk.**

- 1. A superior court has authority to adopt a rule requiring the county clerk to file papers within specified periods of time.**
- 2. If a county clerk fails to file papers in court files within the time set forth in superior court rules, the court has several options for sanctions, including a specific order to perform the work or, in appropriate circumstances, an order holding the clerk in contempt; however, the court does not have authority to remove the clerk.**

September 10, 2001

Honorable Gregory Banks
Island County Prosecuting Attorney
P. O. Box 5000
Coupeville, WA 98239

Cite As:
AGO 2001 No. 6

Dear Prosecutor Banks:

By letter previously acknowledged, you have requested our opinion on the following paraphrased questions:

- 1. Do the judges of the superior court of a county have the authority to adopt a local court rule that requires the clerk of the superior court to have all original pleadings and documents that are filed with the clerk's office pertaining to an active case physically filed within three court days of physical receipt in the clerk's office?**
- 2. If the superior court has such authority, what sanctions can the superior court impose upon the clerk for failure to comply with such a rule?**

BRIEF ANSWERS

APPENDIX D

In response to your first question, we conclude that the superior court has the authority to adopt a local rule requiring the county clerk to physically file all original pleadings and other documents in the court file within three court days. In response to your second question, we conclude that the court could enforce the rule by ordering the filing of pleadings or other documents that have not been filed within three days of receipt. Subsequent failure to comply with such an order may, under appropriate facts, give rise to a contempt sanction.

ANALYSIS

Your first question, repeated for ease of reference, inquired:

1. Do the judges of the superior court of a county have the authority to adopt a local court rule that requires the clerk of the superior court to have all original pleadings and documents that are filed with the clerk's office pertaining to an active case physically filed within three court days of physical receipt in the clerk's office?

Your first question relates to the scope of the superior court's rulemaking authority with regard to the actions of the clerk. You ask whether the superior court has the authority to adopt a local court rule that requires the clerk to physically file all pleadings and other documents in the case file within three court days of receipt. [1] For the reasons set forth below, we conclude that the court has such authority.

By statute, the duties of the court clerk include:

To file all papers delivered to him for that purpose in any action or proceeding in the court *as directed by court rule or statute.*

RCW 2.32.050(4). This statute indicates that the court has the authority, by rule, to direct the manner in which pleadings and other documents are filed with the clerk. That statute therefore dictates an affirmative response to your question.

Even if an argument could be developed in favor of a restrictive interpretation of RCW 2.32.050, the general principles governing the adoption of court rules would lead to the same conclusion. The state constitution provides the judges of the superior courts with authority to adopt "uniform rules for the government of the superior courts." Const. art. IV, § 24. The superior courts also have the authority to adopt rules of procedure that are supplementary and do not conflict with statewide rules adopted by the Supreme Court. RCW 2.04.210; RCW 2.08.230. The Washington Supreme Court has also adopted a rule that authorizes each superior court to "make and amend local rules governing its practice not inconsistent with these rules." CR 83(a).

Washington courts have long recognized that the "duties of a county clerk as clerk of the superior court are defined both by statute and court rules." *Swanson v. Olympic Peninsula Motor Coach Co.*, 190 Wash. 35, 38, 66 P.2d 842 (1937). Our Supreme Court has described the judicial rulemaking power as "inherent" but "limited". *State v. Smith*, 84 Wn.2d 498, 501, 527 P.2d 674 (1974). Court rules have the force of law to the extent that they regulate matters of procedure and practice, although they may not extend to the area of substantive law. *Id.* Therefore, to the extent that the court rule relates to practice and procedure rather than to the creation of substantive law, the rule is within the authority of the court.

The court has explained the distinction between rules of procedure and substantive law:

Although a clear line of demarcation cannot always be delineated between what is substantive and what is procedural, the following general guidelines provide a useful framework for analysis. Substantive law prescribes norms for societal conduct and punishments for violations thereof. It thus creates, defines, and regulates primary rights. In contrast, practice and procedure pertain to the essentially mechanical operations of the courts by which substantive law, rights, and remedies are effectuated.

Id. Based upon that distinction, the court found rules governing the setting of bail in criminal proceedings to be procedural and therefore appropriately governed by court rule. *Id.* In another case, the court concluded that a court rule requiring cities to purchase recording equipment for municipal courts was also procedural in nature. *City of Seattle v. State*, 100 Wn.2d 16, 22, 666 P.2d 359 (1983).

A rule governing the filing of pleadings and other documents in court files is at least as closely related to the mechanical operations of the court as the rules upheld in *State v. Smith* and *Seattle v. State*. The clerk's office is the repository for all pleadings and documents filed with the court. Rules relating to the time and manner in which documents are filed with the clerk, and what happens to them after filing, are therefore important to governing practice within the court. Accordingly, such a rule falls within the court's rulemaking authority.

In reaching this conclusion, we considered the potential argument that the county clerk, as an independently elected official, has some degree of autonomy from the judges of the court. [2] We need not reach that potential issue in order to answer the question you posed, however. We see no reason why the court's rulemaking authority would be limited by the status of the clerk as an elected officer, although it is certainly possible that this fact might be relevant for other reasons or in other contexts.

Your second question, repeated for ease of reference, inquired:

2. If the superior court has such authority, what sanctions can the superior court impose upon the clerk for failure to comply with such a rule?

Your second question concerns the remedy available to the superior court if the clerk should fail to comply with a rule that requires pleadings and other documents to be physically filed within a specified length of time.

We note as a preliminary matter that consideration of enforcement mechanisms may rarely be necessary. We presume that clerks will make every effort to comply with duties provided by statute and court rule.

As noted in response to your first question, the clerk's statutory duties include the filing of documents in court files as directed by court rule. RCW 2.32.050(4). As a general matter, the remedy for failure to perform a duty within the time limit prescribed is an order that the duty be performed. *State v. Martin*, 137 Wn.2d 149, 155, 969 P.2d 450 (1999). In that case, a superior court failed to conduct a disposition hearing in a juvenile proceeding within the time period prescribed by law. [3] The court concluded that although the statute involved stated a mandatory duty to hold the hearing within the time limit, the sole remedy available was to compel the court to conduct the hearing. *Id.*

If the court enters such an order, failure to comply may give rise to the court's authority to impose contempt sanctions if the facts of a particular case warrant. The court's contempt power includes actions to "compel obedience to its judgments, decrees, orders and process" and to "control, in furtherance of justice, the conduct of its ministerial officers".

RCW 2.28.010(4), (5). The Court of Appeals has explained courts have "the power to control the conduct of *all* persons associated with a judicial proceeding." *Easterday v. South Columbia Basin Irrig. Dist.*, 49 Wn. App. 746, 749, 745 P.2d 1322 (1987) (emphasis in original). The court's authority in this regard is limited—existing to ensure its ability to perform its necessary work—and therefore would not extend to the unfettered control of the internal operation of the clerk's office. See RCW 7.21.010(1) (defining "contempt of court"). [4]

It therefore appears that the court can enforce the rule through an order directing a tardy court clerk to comply. Under appropriate circumstances, a remedy of contempt may be available for failure to comply with such an order, provided that such an order may not exceed the court's contempt power.

It may be helpful as well to note two potential remedies that are not available to the court. First, the court cannot remove or replace the clerk. As noted in response to your first question, the voters, and not the court, select the county clerk. [5] State law also assigns personnel decisions as to subordinate employees to the elected clerk. *Osborn*, 130 Wn.2d at 621-22. Second, only under extraordinary circumstances could the court order the county commissioners to fund additional positions within the clerk's office on the theory that the clerk needs more staff to fulfill the duties of office. The authority to create and fund positions within the clerk's office rests with the commissioners. *Id.* Only rarely would the court be in a position to order

increased funding. See *In Re Juvenile Director*, 87 Wn.2d 232, 249-50, 552 P.2d 163 (1976).

As a final point, the open-ended nature of this question makes it necessary to state one additional caveat. You have asked what remedies might be available, rather than asking whether a particular remedy is available. It is always possible, given the boundless nature of the human imagination, that additional possibilities might emerge. Our discussion of some possible mechanisms therefore should not be read to exclude the possibility of others.

We trust that this analysis will be of assistance.

Very truly yours,

JEFFREY T. EVEN
Assistant Attorney General
(360) 586-0728

:pmd

Footnotes

[1] You indicate that a county in your area has adopted such rule. We analyze the question as a hypothetical, however, and do not comment on any specific county rule.

[2] An argument that the county clerk has some degree of independence from the court might be based on either of two premises. The first is that the superior court is unique among Washington courts in having an independently elected clerk. Const. art. XI, § 5 (elected offices of the county include that of county clerk); Const. art. IV, § 26 (county clerk serves as clerk of the superior court). Other courts have the authority to appoint their own clerks. Const. art. IV, § 22 (Supreme Court); CAR 16 (Court of Appeals); ARLJ 5(b) (courts of limited jurisdiction). The authorities cited in text dictate that the rule in question falls within the court's authority without regard to the elected character of the office. Second, the Washington Supreme Court recently held that the county clerk has a certain sphere of autonomy from the county commissioners relating to personnel decisions. *Osborn v. Grant County*, 130 Wn.2d 615, 621-22, 926 P.2d 911 (1996). That decision, however, does not stand for the proposition that clerks are broadly independent of other officers but merely that county commissioners cannot dictate their personnel decisions. The reasoning of that case, which was based on the interpretation of a particular statute relating to hiring and firing employees, does not extend to the present analysis. *Id.*

[3] A "disposition hearing" in a juvenile court proceeding is the equivalent of a sentencing hearing in an adult criminal case. RCW 13.40.130; *State v. Kinzy*, 141 Wn.2d 373, 381, 5 P.3d 668 (2000), *cert. denied*, *State v. Kinzy*, 531 U.S. 1104, 121 S. Ct. 843, 148 L. Ed. 2d 723 (2001).

[4] Your question does not raise any issue as to whether the clerk's failure to timely file any pleadings would have any effect on the validity of the

pleadings themselves. There would seem to be no question that the clerk's failure to timely file a document would not make the document itself ineffective. See *Nichel v. Lancaster*, 97 Wn.2d 620, 624, 647 P.2d 1021 (1982).

[5] See note 2 above.

West's Revised Code of Washington Annotated

Title 2. Courts of Record (Refs & Annos)

Chapter 2.28. Powers of Courts and General Provisions (Refs & Annos)

West's RCWA 2.28.010

2.28.010. Powers of courts in conduct of judicial proceedings

Currentness

Every court of justice has power--(1) To preserve and enforce order in its immediate presence. (2) To enforce order in the proceedings before it, or before a person or body empowered to conduct a judicial investigation under its authority. (3) To provide for the orderly conduct of proceedings before it or its officers. (4) To compel obedience to its judgments, decrees, orders and process, and to the orders of a judge out of court, in an action, suit or proceeding pending therein. (5) To control, in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter appertaining thereto. (6) To compel the attendance of persons to testify in an action, suit or proceeding therein, in the cases and manner provided by law. (7) To administer oaths in an action, suit or proceeding pending therein, and in all other cases where it may be necessary in the exercise of its powers or the performance of its duties.

Credits

[1955 c 38 § 12; 1909 c 124 § 2; RRS § 85.]

West's RCWA 2.28.010, WA ST 2.28.010

The statutes are current through Chapter 3 of the 2018 Regular Session of the Washington legislature.

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.

1
2
3
4
5
6 IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY
7

8 THE JUDGES OF THE BENTON AND
9 FRANKLIN COUNTIES SUPERIOR
10 COURT: JUDGE JOE BURROWES, JUDGE
11 ALEX EKSTROM, JUDGE CAMERON
12 MITCHELL, JUDGE CARRIE RUNGE,
13 JUDGE JACQUELINE SHEA-BROWN,
14 JUDGE BRUCE SPANNER AND JUDGE
15 SAM SWANBERG,

16 Plaintiffs,

17 vs.

18 MICHAEL KILLIAN, FRANKLIN COUNTY
19 CLERK AND CLERK OF THE SUPERIOR
20 COURT,

21 Defendants,
22
23
24
25
26

NO.

DECLARATION OF JUDGE BRUCE
SPANNER IN SUPPORT OF
COMPLAINT FOR WRIT OF
MANDAMUS

18 PURSUANT TO RCW 9A.72.085, BENTON & FRANKLIN COUNTIES SUPERIOR COURT
19 JUDGE, BRUCE SPANNER, declares as follows:

20 1. I am competent to testify in all respects, and make this declaration from my personal
21 knowledge.

22 2. I am an elected and serving Judge of the Benton and Franklin Counties Superior Court, a
23 two-county joint judicial district of the State of Washinton. I am a plaintiff in this action.
24
25
26

DECLARATION OF JUDGE BRUCE SPANNER IN SUPPORT
OF COMPLAINT FOR WRIT OF MANDAMUS - 1
Cause No.:

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD., TUMWATER, WA 98512
P.O. BOX 11180 OLYMPIA, WASHINGTON 98508-1880
(360) 734-3480 FAX: (360) 357-3511

1 3. Attached hereto as exhibits are true and correct copies of: (A) Benton and Franklin
2 Counties Superior Court Judicial Resolution No. 18-001; (B) an Order adopting Local Rule of Court,
3 LGR 3 on an emergency basis; and (C) LGR 3, relating to Files and "Paperless Court" matters. These
4 measures apply to the Superior Court Clerks of both Benton and Franklin Counties.
5

6 4. Washington State's Administrative Office of the Courts (AOC) has undertaken the
7 development of a web-based electronic court records management system for the superior courts of the
8 state, named "Odyssey." The goal of the project is to establish and maintain a fully "paperless" system
9 for the storage and retrieval of filed court documents in the superior courts of Washington. I was on the
10 procurement team and am currently on the Court Users Work Group. That group has been working with
11 the vendor since 2014 to configure and customize Odyssey. I am very familiar with the capabilities of
12 Odyssey. Odyssey was installed in Lewis County as the Pilot Court in May of 2015. It was installed in
13 Franklin, Yakima and Thurston Counties in November, 2015 as Early Adopter Courts. Since then, it has
14 been installed in a total of twenty-three of the thirty-nine Washington counties. Odyssey will be
15 installed in the rest of the participating counties by the end of 2018. The goal of the AOC is to have a
16 fully electronic case management, calendaring and document storage and retrieval system for the
17 superior courts. The Odyssey system is not yet fully implemented in Benton and Franklin Counties or
18 state-wide. Odyssey is scheduled to be implemented for the first time in Benton County in June of 2018.
19 Changes in the system are expected before full implementation is completed.
20
21

22 5. The judges, court commissioners and staff of the Benton & Franklin Counties Superior
23 Court are committed to working in a paperless environment. However, the system must be reliable and
24 fully accessible on the user end, where the records are relied on for decision-making that affects the
25 rights of litigants and other citizens. It must also be adopted in such a manner as to not undermine the
26

**DECLARATION OF JUDGE BRUCE SPANNER IN SUPPORT
OF COMPLAINT FOR WRIT OF MANDAMUS - 2**
Cause No.:

*LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2671 R.W. JOHNSON RD. TUMWATER WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 734-3480 FAX: (360) 337-3511*

1 operation of the court. Full access includes the ability to retrieve and use court data and records
2 wherever and whenever judicial officers and staff need access to those records.

3 6. Among the issues with a paperless system for court records is the management of
4 workflow processes. In 2017, the Judges of the Superior Court (the Court) authorized me to work with
5 the Franklin County Clerk, Mike Killian (the Clerk), to develop those processes and integrate them with
6 the pending paperless system. That project was delayed and was not completed by the end of the year.
7 In 2017, the Clerk advised the Court that he wanted to convert to a paperless court. In late October of
8 2017, the Court, through the Court Administrator, proposed that we address both work flows and the
9 paperless concept in January (of 2018). The Clerk responded by thanking our Court Administrator. On
10 or about December 18 of 2017, the Clerk the informed us, through communication with the Court
11 Administrator, that he would be ending the maintenance of paper files effective at the beginning of
12 2018, and thereafter, judicial officers would only have access to records through the electronic system.
13 The Clerk informed the Court, again through the Court Administrator, that the Court would need to
14 change our long-standing practice of conducting settlement conferences in jury rooms. The Court
15 objected that the Clerk could not unilaterally limit where in the courthouse the Judicial officers
16 performed their duties and directed the Clerk to continue maintaining and providing paper files. The
17 Clerk refused. The parties attempted and failed to reach a short-term compromise by limiting the types
18 of files that would be retained as complete and sequential paper files during a transition period.
19 Ultimately, the Clerk refused to comply with our directive. Against our wishes, and contrary to our
20 expressed directions, the Clerk purported to convert his office to paperless effective January 2, 2018.
21 Left without any other recourse, on January 16, 2018, the Court adopted the resolution, order and local
22 court rule referred to in Paragraph 3 above and attached hereto. The Clerk requested, and was given
23
24
25
26

**DECLARATION OF JUDGE BRUCE SPANNER IN SUPPORT
OF COMPLAINT FOR WRIT OF MANDAMUS -- 3**
Cause No.:

*LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511*

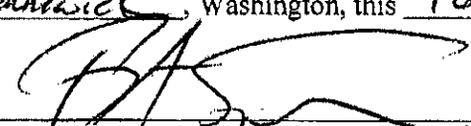
1 time to formally respond to the rule. On February 8, 2018 the Clerk formally refused to comply with
2 LGR 3, and has taken the position that since he is an independently elected official of the County he
3 alone may dictate how court records and files are maintained and made accessible to judicial officers
4 and staff of the Superior Court. Accordingly, this lawsuit is necessary.

5
6 7. Paper copies of case files, pleadings and other materials are needed by the Court because
7 computerized systems for retrieval and reading of such materials have not yet evolved to the point where
8 they are readily accessible at all of the places where they are needed for review by the judges and court
9 commissioners conducting proceedings with litigants, attorneys and other members of the court. For
10 example, settlement conferences in domestic relations cases are conducted in jury rooms. They are not
11 scheduled to be conducted in a judge's chambers because these areas contain confidential material of
12 others. There are no computers in the jury rooms, so it is necessary for the Judge to have a paper file
13 there in order to review briefs, declarations and exhibits which are relevant to the issues in the settlement
14 conference. This dispute must be resolved before procedures to address this and other challenges
15 created by a paperless environment can be implemented.

16
17 8. A writ of mandamus is necessary to compel the Franklin County Clerk to follow and
18 abide by LGR 3, and thereby assure that the Judges of the Superior Court have the needed access to files
19 maintained by the Franklin County Clerk for the Judges of the Superior Court.

20
21 I declare under penalty of perjury under the laws of the State of Washington that the foregoing is
22 true and correct.

23 SIGNED at Kennecook, Washington, this 16 day of March, 2018.

24
25 
26 JUDGE BRUCE A. SPANNER

DECLARATION OF JUDGE BRUCE SPANNER IN SUPPORT
OF COMPLAINT FOR WRIT OF MANDAMUS - 4
Cause No.:

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 D.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511

**BENTON & FRANKLIN COUNTIES SUPERIOR COURT
JUDICIAL RESOLUTION NO. 18-001
ADOPTION OF LOCAL GENERAL RULE 3**

The Judges of the Superior Court in and for Benton and Franklin Counties, find that:

1. The Franklin County Clerk informed the Court in December 2017 that beginning January 2, 2018, he would operate a "paperless" office and no longer maintain paper files;
2. The Court directed the Clerk to continue making and maintaining paper files until such time it can ensure a paperless system will allow it to effectively serve the community, but the Clerk refused;
3. While the Court agrees paperless courts are preferable, they should only be implemented after careful consideration of the impacts upon the Court, the legal community and the public;
4. Addressing these impacts on the Court requires implementation of work flow and work queue functionality of the case management system. Work flows and work queues are integral to, and facilitate paperless process, by, among other things, allowing electronic signatures to be affixed to documents;
5. Art. IV, Sec. 26, Wash. Const. provides that the "county clerk shall be by virtue of his office, clerk of the superior court";
6. Clerks have been delegated the task of keeping the records, files, and other books and papers appertaining to the court pursuant to RCW 2.32.050 (3) and RCW 36.23.030;
7. But, "[t]he superior court "has power ... [t]o control, in furtherance of justice, the conduct of its ministerial officers," such as county clerks. RCW 2.28.010(5). *Recall of Riddle*, 189 Wn.2d 565, 583 (2017). The Clerk's function is "ministerial". *Swanson v. Olympic Peninsula Motor Coach Co.*, 190 Wash. 35, 38, 66 P.2d 842 (1937)." Quoting further from the *Riddle* decision, "[t]herefore, when acting as the clerk of the superior court, the county clerk *has always been* required "[i]n the performance of his or her duties to conform to the direction of the court." (quoting RCW 2.32.050(9), emphasis added), *Recall of Riddle at 583*.

8. Clerks are required to file all papers delivered to him or her for that purpose in any action or proceeding in the court, *as directed by court rule or statute*, pursuant to RCW 2.32.050 (4);
9. Clerks are required to enter the court's orders, judgments and decrees, *under the direction of the court* pursuant to RCW 2.32.050 (6);
10. Clerks are required to *conform to the direction of the court* in the performance of their duties pursuant to RCW 2.32.050 (9);
11. Art. IV, Sec. 24, Wash. Const. provides that "judges of the superior courts, shall from time to time, establish uniform rules for the government of the superior courts";
12. The constitutional authority of the superior courts to adopt local rules is codified in GR 7;
13. The Attorney General has opined that the superior courts may adopt a local rule directing the manner in which clerks file pleadings and documents in case files. Op.Atty.Gen.2001, No. 6, September 10, 2001; and
14. An emergency exists which requires this local rule as one that proscribes internal management of the court, and does not affect courtroom procedures. Accordingly, the time limitations set forth in GR 7(a) do not apply to this rule.
15. This rule is adopted a permanent rule, as authorized by GR 7(e).

///

///

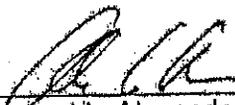
///

///

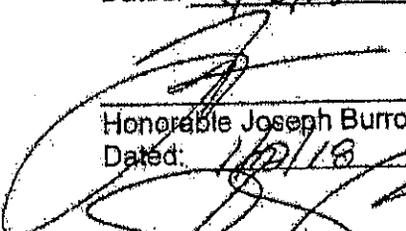
///

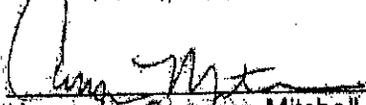
///

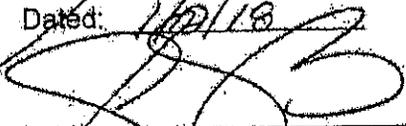
The Superior Court of the State of Washington in and for Benton County **HEREBY ORDERS**, pursuant to General Rule 7(e), that Local General Rule 3, attached hereto and incorporated herein by reference, is adopted effective immediately upon filing with the Administrative Office of the Courts.


Honorable Alexander C. Ekstrom
Presiding Judge
Dated: 1/12/18


Honorable Bruce A. Spanner
Assistant Presiding Judge
Dated: 1/16/18


Honorable Joseph Burrowes
Dated: 1/12/18


Honorable Cameron Mitchell
Dated: 1/16/18


Honorable Jacqueline Shea-Brown
Dated: 1/16/2018

Carrie Runge
Honorable Carrie Runge
Dated: 1/16/18

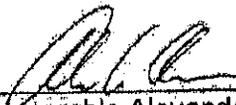

Honorable Samuel Swanberg
Dated: 1/12/18

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR BENTON AND FRANKLIN COUNTIES

IN THE MATTER OF ADOPTING)
EMERGENCY LOCAL COURT RULE)
)
)
_____)

ORDER

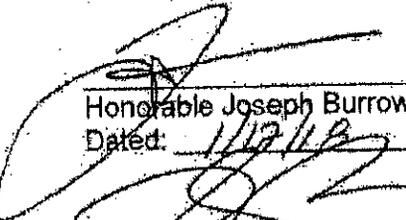
Pursuant to General Rule 7 (a) (1) and 7 (e) (2), the Superior Court of the State of Washington in and for Benton and Franklin Counties hereby orders that the Local Rule of Court, LGR 3, attached hereto and incorporated by herein, is adopted and an emergency and permanent local rule effective on the date it is hereafter filed with the Washington Administrative Office of the Court.



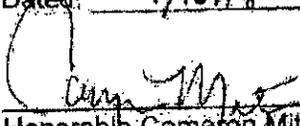
Honorable Alexander C. Ekstrom
Presiding Judge
Dated: 1/12/2018



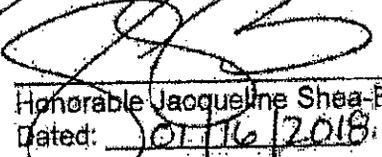
Honorable Bruce A. Spanner
Assistant Presiding Judge
Dated: 1/16/18



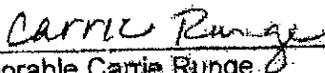
Honorable Joseph Burrowes
Dated: 1/12/18



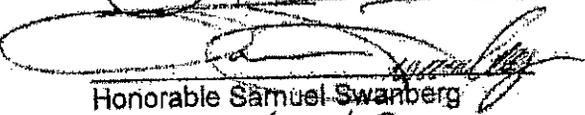
Honorable Cameron Mitchell
Dated: 1/16/18



Honorable Jacqueline Shea-Brown
Dated: 01/16/2018



Honorable Carrie Runge
Dated: 1/16/18



Honorable Samuel Swanberg
Dated: 1/12/18

EXHIBIT B

Local General Rule 3
FILES AND "PAPERLESS COURT"

- (a) The clerks of Benton and Franklin Counties shall keep and maintain paper files for all cases and file types, by forthwith filing all pleadings and papers in paper files, except as may be otherwise authorized in writing by the Court.
- (b) The clerks of Benton and Franklin Counties shall make up-to-date paper files for all cases and case types available to the Court, as directed by its judicial officers.
- (c) While paperless courts are preferable, they should only be implemented after careful consideration of the impacts upon the Court, the legal community and the public, and only after case management systems have been configured so all of their capabilities are realized. Accordingly, neither clerk shall attempt or purport to operate with "paperless" processes unless and until the same has been approved in writing by the court. Permission will not be granted unless the Court is satisfied that appropriate workflows and work queues have been implemented, that equipment and processes have been acquired and developed to facilitate electronic signatures, and that the paperless processes do not adversely affect the Court's ability to conduct court proceedings and other court functions. As directed by the Court, the Clerks shall work diligently, collaboratively and harmoniously with the Court to satisfy all of the conditions precedent to "paperless" court, as set forth above. In so doing, the clerks shall conform to the direction of the Court.
- (d) Pursuant to GR7(e) this rule shall become effective immediately upon filing the same with the Washington Administrative Office of the Courts.

[Adopted Effective January 16, 2018]

EXHIBIT C

Adriana Orozco

From: Shawn Sant <ssant@co.franklin.wa.us>
Sent: Thursday, March 22, 2018 6:47 PM
To: Dale Kamerrer
Subject: RE: Franklin County Judges vs. Clerk

Importance: High

Dale,

Upon further review of the scope of our engagement letter and considering the recently filed complaint and remedies being sought of the court, I believe this exceeds the authority and work contemplated by our engagement letter dated February 6, 2018. I recognize the engagement letter includes the phrase "represent in legal proceedings if necessary" but I do not believe this contemplated Franklin County funding to bring a lawsuit against itself. This matter is further complicated as Benton County has not specifically authorized the expenditure of funds on behalf of their elected judges and it would make no sense for Franklin County to pay to fund a legal action against itself. I reached out initially to the Attorney General's Office to have them represent the Superior Court judges but they declined because there was no pending legal action. I will reach out to them now that a complaint is filed to see if they will reconsider their earlier stance. I would continue to authorize funding of legal expenses to resolve this matter outside of litigation but when the complaint seeks "costs and disbursements herein" under 3.7 of the complaint, I will not authorize further expenditure against Franklin County without Board approval.

I am obligated to provide representation to defend a County employee(s), elected official(s), or any other person(s) acting on behalf of Franklin County but in this case I am being asked to fund both sides of litigation. Initial appointment of independent counsel was designed to avoid a conflict situation in taking sides between two different elected officials but now that this matter has elevated to litigation rather than a mediation effort to find a solution, I cannot fund this legal action as it exceeds the scope contemplated by our engagement letter.

I would suggest this matter be brought before the Board of Commissioners to address litigation funding. If the plaintiffs desire to retain you as their own counsel and fund accordingly, I would sign off on that appointment and engagement letter as special counsel to avoid any further delays.

Please feel free to follow up with me if you have any questions.

Thanks,

Shawn

*Shawn P. Sant, Prosecutor
Franklin County Prosecutor's Office
1016 N. 4th Ave.
Pasco, WA 99301
(509) 545-3543
ssant@co.franklin.wa.us*

ATTORNEY WORK PRODUCT / ATTORNEY-CLIENT PRIVILEGED INFORMATION -- DO NOT DISSEMINATE

CONFIDENTIALITY NOTICE: This electronic mail transmission may contain legally privileged, confidential information. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking any action based on the contents of this electronic mail is strictly prohibited. If you received this in error, please contact the sender and delete all copies. **ADDITIONAL NOTICE.** This email transmission is not secure. Because email can be altered electronically, the integrity of this communication can not be guaranteed by Franklin County.

From: Dale Kamerrer <dkamerrer@lldkb.com>
Sent: Wednesday, March 21, 2018 3:30 PM
To: Shawn Sant <ssant@co.franklin.wa.us>
Subject: Franklin County Judges vs. Clerk

**PRIVILEGED & CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION
EXEMPT FROM INSPECTION, DISCLOSURE AND PRODUCTION**

Shawn:

Attached are copies of the pleadings I have filed today on behalf of the judges.

Dale Kamerrer
Law, Lyman, Daniel, Kamerrer
& Bogdanovich, P.S.
P.O. Box 11880
Olympia, WA 98508-1880
(360) 754-3480
(360) 357-3511 fax

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

This e-mail message is protected by the Electronic Communications Privacy Act, 18 U.S.C. §2510-2521 and is legally privileged. Unauthorized review, use or distribution is prohibited. Interception of this e-mail is a violation of federal criminal law.

This office does not accept service of process via email or fax without prior authorization.

Adriana Orozco

From: Shawn Sant <ssant@co.franklin.wa.us>
Sent: Tuesday, March 27, 2018 11:57 AM
To: Dale Kamerrer
Cc: Alex Ekstrom; Bruce Spanner Benton
Subject: RE: Franklin County Judges

I will extend the same halt to litigation expenditures by both sides until further funding is authorized or the Attorney General's Office steps in. I would certainly encourage any expenditures towards resolving the matter outside of the litigation filed but understand from prior discussions with you and your clients that this may not be practical but if there was anyway an agreement could be reached outside of the complaint, I would support those efforts and could request funding for that effort now. It is the litigation piece that I couldn't seek funding for today as I haven't received an answer from the Attorney General's Office yet.

Thanks,

Shawn
Shawn P. Sant, Prosecutor
Franklin County Prosecutor's Office
1016 N. 4th Ave.
Pasco, WA 99301
(509) 545-3543
ssant@co.franklin.wa.us

ATTORNEY WORK PRODUCT / ATTORNEY-CLIENT PRIVILEGED INFORMATION -- DO NOT DISSEMINATE

CONFIDENTIALITY NOTICE: This electronic mail transmission may contain legally privileged, confidential information. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking any action based on the contents of this electronic mail is strictly prohibited. If you received this in error, please contact the sender and delete all copies. **ADDITIONAL NOTICE:** This email transmission is not secure. Because email can be altered electronically, the integrity of this communication can not be guaranteed by Franklin County.

From: Dale Kamerrer <dkamerrer@lldkb.com>
Sent: Tuesday, March 27, 2018 11:50 AM
To: Shawn Sant <ssant@co.franklin.wa.us>
Cc: Alex Ekstrom <Alex.Ekstrom@co.benton.wa.us>; Bruce Spanner Benton <bruce.spanner@co.benton.wa.us>
Subject: RE: Franklin County Judges

**PRIVILEGED & CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION
EXEMPT FROM INSPECTION, DISCLOSURE AND PRODUCTION**

Shawn:

Thanks. Is it correct that I won't be patched into a conversation with the BOCC today?

Is the Clerk's attorney similarly being put "on hold?" I am concerned that they may proceed w/o limitation and put the Court at a disadvantage in this litigation.

I can, however, provide an estimate of litigation costs when you request the same.

Dale Kamerrer
Law, Lyman, Daniel, Kamerrer
& Bogdanovich, P.S.
P.O. Box 11880
Olympia, WA 98508-1880
(360) 754-3480
(360) 357-3511 fax

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

This e-mail message is protected by the Electronic Communications Privacy Act, 18 U.S.C. §2510-2521 and is legally privileged. Unauthorized review, use or distribution is prohibited. Interception of this e-mail is a violation of federal criminal law.

This office does not accept service of process via email or fax without prior authorization.

From: Shawn Sant <ssant@co.franklin.wa.us>
Sent: Tuesday, March 27, 2018 11:46 AM
To: Dale Kamerrer <dkamerrer@lldkb.com>
Cc: Alex Ekstrom <Alex.Ekstrom@co.benton.wa.us>; Bruce Spanner Benton <bruce.spanner@co.benton.wa.us>
Subject: RE: Franklin County Judges

Dale,

I met with the Board in executive session to brief them on the litigation. As I indicated to you earlier, I would need the Board's authority for funding a lawsuit or action against Franklin County. I also indicated that I have reached out to the Attorney General's Office as they will typically represent Superior Court Judges when there is a conflict with the County where they are seated. I received communication yesterday that the AG's Office is reviewing this matter and will get back to me, hopefully sooner than later. I have a difficult time justifying the cost to Franklin County with retained counsel if the AG is willing to step in and represent the parties.

In the event the AG's Office declines to take on this matter, I will ask you to provide me with an estimate of the legal costs associated with going forward on the Writ so that a request to the Board can be made as soon as possible.

Please let me know if you have additional concerns. Please hold off on further litigation expenses until additional funding is approved.

Thank you,

Shawn

*Shawn P. Sant, Prosecutor
Franklin County Prosecutor's Office
1016 N. 4th Ave.
Pasco, WA 99301
(509) 545-3543
ssant@co.franklin.wa.us*

ATTORNEY WORK PRODUCT / ATTORNEY-CLIENT PRIVILEGED INFORMATION -- DO NOT DISSEMINATE

CONFIDENTIALITY NOTICE: This electronic mail transmission may contain legally privileged, confidential information. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking any action based on the contents of this electronic mail is strictly prohibited. If you received this in error, please contact the sender and delete all copies. **ADDITIONAL NOTICE.** This email transmission is not secure. Because email can be altered electronically, the integrity of this communication can not be guaranteed by Franklin County.

Adriana Orozco

From: Shawn Sant <ssant@co.franklin.wa.us>
Sent: Wednesday, March 28, 2018 2:07 PM
To: Dale Kamerrer
Subject: RE: Franklin County Judges

Dale,

I have reached out to Defense counsel and there would be agreement to halt further action on the litigation but you will need to waive in writing the 20 day response as required by the complaint filed. I am still awaiting response from the Attorney General's Office. I will apprise both counsel as soon as I hear something.

Please contact me if you have any questions.

Thanks Dale,

Shawn

From: Dale Kamerrer <dkamerrer@ldkb.com>
Sent: Tuesday, March 27, 2018 11:50 AM
To: Shawn Sant <ssant@co.franklin.wa.us>
Cc: Alex Ekstrom <Alex.Ekstrom@co.benton.wa.us>; Bruce Spanner Benton <bruce.spanner@co.benton.wa.us>
Subject: RE: Franklin County Judges

**PRIVILEGED & CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION
EXEMPT FROM INSPECTION, DISCLOSURE AND PRODUCTION**

Shawn:

Thanks. Is it correct that I won't be patched into a conversation with the BOCC today?

Is the Clerk's attorney similarly being put "on hold?" I am concerned that they may proceed w/o limitation and put the Court at a disadvantage in this litigation.

I can, however, provide an estimate of litigation costs when you request the same.

Dale Kamerrer
Law, Lyman, Daniel, Kamerrer
& Bogdanovich, P.S.
P.O. Box 11880
Olympia, WA 98508-1880
(360) 754-3480
(360) 357-3511 fax

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

This e-mail message is protected by the Electronic Communications Privacy Act, 18 U.S.C. §2510-2521 and is legally privileged. Unauthorized review, use or distribution is prohibited. Interception of this e-mail is a violation of federal criminal law.

This office does not accept service of process via email or fax without prior authorization.

From: Shawn Sant <ssant@co.franklin.wa.us>
Sent: Tuesday, March 27, 2018 11:46 AM
To: Dale Kamerrer <dkamerrer@lldkb.com>
Cc: Alex Ekstrom <Alex.Ekstrom@co.benton.wa.us>; Bruce Spanner Benton <bruce.spanner@co.benton.wa.us>
Subject: RE: Franklin County Judges

Dale,

I met with the Board in executive session to brief them on the litigation. As I indicated to you earlier, I would need the Board's authority for funding a lawsuit or action against Franklin County. I also indicated that I have reached out to the Attorney General's Office as they will typically represent Superior Court Judges when there is a conflict with the County where they are seated. I received communication yesterday that the AG's Office is reviewing this matter and will get back to me, hopefully sooner than later. I have a difficult time justifying the cost to Franklin County with retained counsel if the AG is willing to step in and represent the parties.

In the event the AG's Office declines to take on this matter, I will ask you to provide me with an estimate of the legal costs associated with going forward on the Writ so that a request to the Board can be made as soon as possible.

Please let me know if you have additional concerns. Please hold off on further litigation expenses until additional funding is approved.

Thank you,

Shawn

*Shawn P. Sant, Prosecutor
Franklin County Prosecutor's Office
1016 N. 4th Ave.
Pasco, WA 99301
(509) 545-3543
ssant@co.franklin.wa.us*

ATTORNEY WORK PRODUCT / ATTORNEY-CLIENT PRIVILEGED INFORMATION -- DO NOT DISSEMINATE

CONFIDENTIALITY NOTICE: This electronic mail transmission may contain legally privileged, confidential information. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking any action based on the contents of this electronic mail is strictly prohibited. If you received this in error, please contact the sender and delete all copies. **ADDITIONAL NOTICE:** This email transmission is not secure. Because email can be altered electronically, the integrity of this communication can not be guaranteed by Franklin County.

Exhibit H

GUY BOGDANOVICH *
DON G. DANIEL
JOHN E. JUSTICE *
W. DALE KAMERRER
ELIZABETH A. MCINTYRE *
JEFFREY S. MYERS
JULIE K. CARIGNAN

DONALD LAW, of counsel
JOCELYN LYMAN, of counsel
*Admitted in WA & OR

**LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.**

ATTORNEYS AT LAW
(360) 754-3480 FAX: (360) 357-3511

Mailing Address:
P.O. BOX 11880
OLYMPIA, WA 98508

Street Address:
2674 RW JOHNSON BLVD SW
TUMWATER, WA 98512

May 21, 2018

Commissioner Brad Peck, Chairman
Commissioner Rick Miller, Chairman Pro-Tem
Commissioner Robert Koch
Board of County Commissioners of Franklin County, Washington
1016 N. 4th Avenue
Pasco, WA 99301-3706

Dear Commissioners:

On behalf of the Judges of the Benton and Franklin Counties Superior Court, I write to respectfully explain why the offer to terminate the pending lawsuit between the Judges and the Franklin County Clerk and submit the dispute referred to in that lawsuit to the Washington State Attorney General for an opinion is not an acceptable means of resolving this matter.

1. The magnitude of the disagreement between the Court and the Clerk has not been sufficiently appreciated in the proceedings outside of the court filing which have occurred to date. This is a matter of constitutional significance. The Superior Court is the court of general jurisdiction in Washington and is vested with the authority and responsibility to administer justice in the most significant matters which confront the judiciary. It is obligated to hear and decide all manner of civil and criminal claims. This obligation demands accuracy, fairness and protection of citizens' Constitutional, statutory and common law rights and responsibilities. Subject to appellate review, the Superior Court is the decision-maker in cases which can deprive citizens of their lives, liberty and property in both civil and criminal contexts. Discharging these responsibilities requires that the procedures employed by officers who are ancillary to the judicial function, such as the Clerk, be satisfactory in all respects to the Court. This is because the Court, not the Clerk, is responsible to protect legal rights and assure due process.
2. In this particular situation, the Clerk wishes to usurp from the Court authority for a function that is indispensable to the Court's administration of justice. That function is the accurate keeping of the Court's records, their reliability and their access by the Court and other users. Persons who rely on the Court's records include judges, attorneys, and the persons whose constitutional and other legal rights are affected by the Court's authority and obligation to assure legal protection and due process. Unless the Court is able to

Board of County Commissioners, Franklin County
May 21, 2018
Page 2

define and regulate that access and use, it cannot provide the protection and process it must assure. Washington's Supreme Court has recognized the Superior Court's authority to control its records by saying:

"Generally speaking, a clerk of court is an officer of a court of justice, who attends to the clerical portion of its business, and who has custody of its records and files and of its seal. Such an office is essentially ministerial in its nature, and the clerk is neither the court nor a judicial officer." *Swanson v. Olympic Peninsula Motor Coach Co.*, 190 Wash. 35, 38, 66 P.2d 842 (1937) (emphasis added). The superior court "has power ... [t]o control, in furtherance of justice, the conduct of its ministerial officers," such as county clerks. RCW 2.28.010(5). Therefore, when acting as the clerk of the superior court, the county clerk has always been required "[i]n the performance of his or her duties to conform to the direction of the court." RCW 2.32.050(9); see Laws of 1891, ch. 57, § 3(9).

Matter of Recall of Riddle, 189 Wn.2d 565, 583 (2017), as amended (Oct. 26, 2017) (emphasis added.)

3. In the past, the Clerk's record-keeping procedures were straight-forward, easily understood and long-practiced. The Clerk received, filed and maintained paper records, and produced them at regular times and places for the Court, attorneys and citizens. They could be delivered in original form when requested, or copied for requesters. With the advent of electronic processes for the receipt, maintenance and production of Court records, there is a need for procedures and protections that afford similar ease of recording, but for which there is a critical need for access and reliability. However, in recent months, we have experienced failures in those processes where the Franklin County Clerk has asserted unilateral control over them. This has included the failure of the Clerk to electronically deliver a Court Order related to a person's obligation to report for incarceration; and his failure to timely deliver Orders Quashing Warrants and Orders of Dismissal, resulting in concerns that defendants are held in excess of any legal authority and that Franklin County is exposed to liability for claims of unlawful imprisonment. These are failures that could be avoided by recognizing that the Court must decide how and when electronic records are delivered, and the manner of their access in Court proceedings. But more importantly, these failures affected the liberty interests of a citizen and the procedural rights of litigants. These are matters that cannot be left to the control of a ministerial officer who does not recognize legal necessities, and who does not have the obligation to protect legal rights.
4. The suggestion that an Attorney General opinion would solve this situation is unrealistic. First, there is no way to control whether the Attorney General's office will accept a

Board of County Commissioners, Franklin County
May 21, 2018
Page 3

request for an opinion. Even if the existing lawsuit is dismissed, the AG may believe that the issues are best decided through litigation between the parties. That would require re-filing the lawsuit. Second, the AG could refer us back to AGO 2001, No. 6, the opinion which we appended to our motion in the pending lawsuit. However, although we believe that opinion clearly supports the Court's position that the Clerk is obligated to follow a local court rule such as LGR 3, the Clerk disagrees and gives that opinion an unreasonably narrow interpretation. Therefore, if the AG refers us back to the 2001 opinion, we can expect that the Clerk will say it does not specifically require him to comply with LGR 3, putting us back to the point of beginning for this matter. Moreover, if the AG does issue a new decision based upon our request, nothing guarantees that the Clerk will accept the full extent of its meaning. The Court's concern regarding the Clerk's acceptance of anything less than a binding decision is heightened by his remark at your last meeting on May 8, 2018, where, at time-code 55:29 he stated "...I just want to indicate that the Judges haven't asked for paper files since the inception of Odyssey in Franklin County..." Members of the Court have specifically asked for and received individual paper files from the Clerk or his deputies since Odyssey's 2015 inception, members of the Court have received paper files for every case on some dockets until this practice was unilaterally ended in December of 2017. Moreover, the catalyst for this dispute was the Court's ongoing request for paper files. While the issue here is legal, the Court cannot have a productive discussion with the Clerk when he maintains a position that is factually incorrect. Only a court decision will provide the binding specificity and direction needed here.

5. While we understand the Board believes that dismissal of the lawsuit and referral of this matter to the AG would be efficient, that is not likely correct. Attorneys have already been used in the ongoing funding debate whose time could have been better utilized presenting the legal issues to the assigned temporary judge from Kittitas County. Attorneys would also likely be used to prepare and possibly debate the question to be presented to the AG. The Court and the County would be better served by simply getting the issues before a judge with clear jurisdiction and authority to decide those issues. This entire matter has been made more expensive by the side track we have been on.

The Prosecuting Attorney cannot represent the Court in this matter. He has acknowledged that by appointing outside counsel for both the Court and the Clerk. This brings RCW 36.27.030 into play, and that statute authorizes the Court to appoint an attorney to stand in for the Prosecutor and compel the County to compensate that attorney for his or her services. We prefer that appointment and compensation be initiated by the Prosecutor and supported by the Board of County Commissioners, but that has not happened. Accordingly, the Court will exercise its authority to appoint counsel and compel compensation, with the amount of that compensation being subject to review and approval by the Court.

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW

Board of County Commissioners, Franklin County
May 21, 2018
Page 4

While the Court regrets the necessity of the pending lawsuit and the procedures explained above, this could have been avoided if the Clerk would have recognized the authority of the Court as explained in the statutes, court decisions and Attorney General's opinion which we have cited in our pending motion.

Very truly yours,

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.



W. Dale Kamerrer

WDK:bs

cc: Shawn Sant
Superior Court Judges

Exhibit I

**PROSECUTING ATTORNEY
FRANKLIN COUNTY, WASHINGTON**

**SHAWN P. SANT
PROSECUTING ATTORNEY**

**DAVID W. CORKRUM
CHIEF CRIMINAL DEPUTY**

**JENNIFER L. JOHNSON
CHIEF CIVIL DEPUTY**

**KELLY J. SCHADLER
OFFICE ADMINISTRATOR**

1016 North 4th Avenue
Pasco, WA 99301
Criminal Division (509) 545-3543
Fax (509) 545-2135

DEPUTIES:

**FRANK W. JENNY
TIMOTHY E. DICKERSON
MAUREEN R. LORINCZ
KIM M. KREMER
TEDDY E. CHOW
TERESA CHEN
LUCAS G. DOWNER
ALBERT H. LIN
LAURA J. MAPES**

May 22, 2018

W. Dale Kamerrer
Law, Lyman, Daniel, Kamerrer Bogdanovich, P.S.
P.O. Box 11880
Olympia, WA 98508

Re: Special Deputy Appointment

Dear Mr. Kamerrer:

With the Clerk's agreement to provide a paper record, the dispute is resolved, and you have fulfilled the purpose of your appointment as my special deputy. The Franklin County Auditor's Office will be advised that this concludes your work for Franklin County as a special deputy. Insofar as the judges may wish to sue the Clerk, and therefore the County, which is the real party in interest, this would be an ultra vires act which my deputy cannot perform. Absent Board authority, I lack authority to sue the County. I cannot authorize any person to do what I myself am not authorized to do. *Osborne v. Grant County By and Through Grant County Com'rs*, 130 Wn. 2d 615, 926 P.2d 911 (1996) (Although county prosecutor was prevented from representing county clerk because of her conflict with position taken by county board of commissioners, trial court could not appoint special prosecutor to represent clerk in her suit against county, since county prosecutor had no authority to sue county on behalf of county officer; legislature did not authorize or contemplate the prosecutor representing a party in a lawsuit against county.) Accordingly, there is no longer any actual conflict, and your appointment is revoked as of this date.

The judges, of course, may hire any attorney with their own funds. However, my office remains willing and available to provide advice to the superior court judges.

Sincerely,



Shawn P. Sant
Prosecuting Attorney

Exhibit J

FILED
FRANKLIN CO CLERK

2018 MAY 22 PM 3:32

MICHAEL J. KILLIAN

BY DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR FRANKLIN COUNTY

IN RE THE APPOINTMENT OF A
SPECIAL DEPUTY PROSECUTING
ATTORNEY

ORDER OF APPOINTMENT

This matter came before the above-entitled Court for consideration of the appointment of a Special Deputy Prosecuting Attorney for Franklin County, pursuant to RCW 36.27.030. The Court makes the following Findings of Fact related thereto:

1. In relation to the action entitled *The Judges of the Benton and Franklin Counties Superior Court: Judge Joe Burrowes, Judge Alex Ekstrom, Judge Cameron Mitchell, Judge Carrie Runge, Judge Jacqueline Shea-brown, Judge Bruce Spanner and Judge Sam Swanberg, Plaintiffs, vs. Michael Killian, Franklin County Clerk and Clerk of the Superior Court, Defendants*, Franklin County Superior Court No. 18-2-50285-11, as contemplated by RCW 36.27.030, the Prosecuting Attorney of Franklin County is unable to discharge the duties of his office due to a disability arising from the requirements and limitations of Rules of Professional Conduct, Rule 1.7; and

2. The Attorney General of the State of Washington has declined to represent the plaintiffs in the action referred to above; and

3. W. Dale Kamerrer, WSBA #8218, is a duly admitted and practicing attorney-at-law and resident of the State of Washington, and is qualified to discharge the duties of the Prosecuting Attorney of Franklin County in relation to the above-referenced action, and has been performing the duties of the attorney for the plaintiffs in said action pursuant to

ORDER OF APPOINTMENT - 1

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD SW, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

1 appointment by the Franklin County Prosecuting Attorney to serve as a Special Deputy
2 Prosecutor; and

3 4. Mr. Kamerrer shall receive such reasonable compensation for the professional
4 services he renders to the plaintiffs as may be fixed and ordered by the court to be paid by
5 Franklin County.

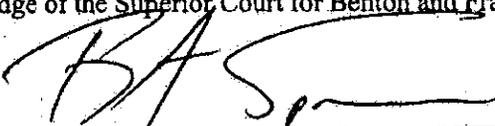
6 Based upon the foregoing Findings of Fact, it is now hereby Ordered:

7 1. W. Dale Kamerrer is hereby Appointed as a Special Deputy Prosecuting Attorney
8 to represent the plaintiffs in the action identified above.

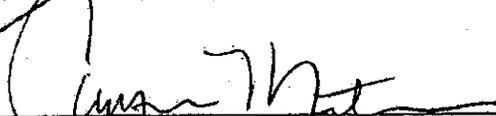
9 2. Payment of compensation for the professional services rendered shall be subject
10 to further order of the court.

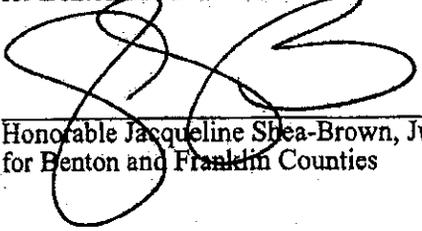
11 Dated this 21st day of May 2018.

12
13 
14 Honorable Alex Ekstrom, Administrative Presiding Judge,
Judge of the Superior Court for Benton and Franklin Counties

15
16 
17 Honorable Bruce Spanner, Assistant Administrative Presiding Judge,
Judge of the Superior Court for Benton and Franklin Counties

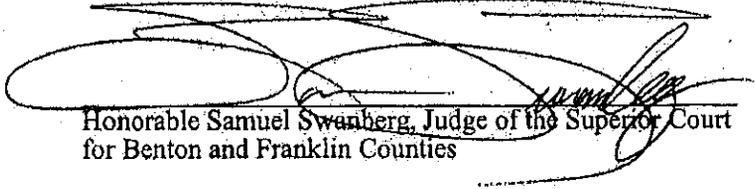
18
19 
20 Honorable Joseph Burrowes, Judge of the Superior Court
for Benton and Franklin Counties

21
22 
23 Honorable Cameron Mitchell, Judge of the Superior Court
for Benton and Franklin Counties

24
25 
26 Honorable Jacqueline Shea-Brown, Judge of the Superior Court
for Benton and Franklin Counties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Carrie Runge
Honorable Carrie Runge, Judge of the Superior Court
for Benton and Franklin Counties


Honorable Samuel Swanberg, Judge of the Superior Court
for Benton and Franklin Counties