

FILED
SUPREME COURT
STATE OF WASHINGTON
12/17/2018 3:25 PM
BY SUSAN L. CARLSON
CLERK

NO. 96464-5

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

SANDRA EHRHART, individually and as personal representative of the
Estate of Brian Ehrhart,

Respondent.

v.

KING COUNTY, operating through its health department, Public Health –
Seattle & King County,

Petitioner,

v.

SWEDISH HEALTH SERVICES, a non-profit entity; and
JUSTIN WARREN REIF, an individual,

Defendants.

**DECLARATION OF ADAM ROSENBERG IN SUPPORT OF THE
ESTATE'S RESPONSE TO DIRECT AND DISCRETIONARY
REVIEW**

Adam Rosenberg, WSBA #39256
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Counsel for the Ehrhart family

I, Adam Rosenberg, declare as follows:

1. I am one of the attorneys representing the Respondent, the Ehrhart family, in this matter. This declaration is based upon my personal knowledge – and intended to respond to new evidence and arguments being made by the County on appeal.

2. The following exhibits are cited or relied upon in the Respondent’s answers to the County’s motion for discretionary review and statement of grounds for direct review:

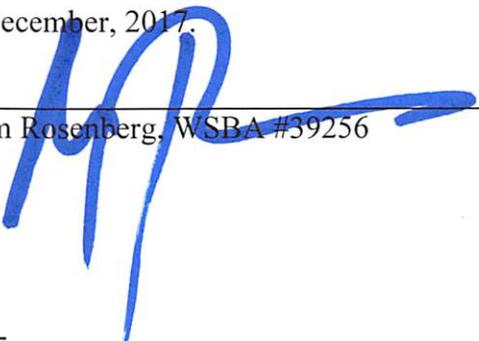
A. Attached as **Exhibit A** is a true and correct copy of King County’s response to my public records request.

B. Attached as **Exhibit B** is a true and correct copy of an excerpt from a presentation prepared by King County (with the Department of Health), which was produced in discovery.

C. Attached as **Exhibit C** is a true and correct copy of an emails exchange between County officials and the Department of Health around the time of the summary judgment hearing, which was produced in discovery.

I certify that, under penalty of perjury of the laws of Washington, the above written statements are true and accurate to the best of my knowledge.

DATED this 17th day of December, 2017.



Adam Rosenberg, WSBA #39256

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, I caused a true and correct copy of the foregoing document to be served via email, per agreement of counsel, to the following:

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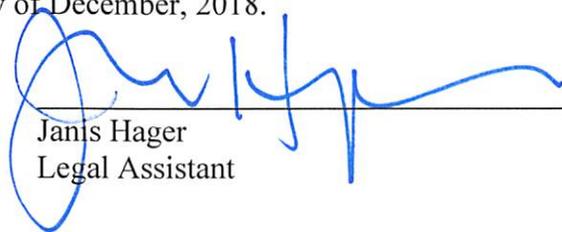
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- Via U.S. Mail
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Attorneys for Plaintiff

DATED this 17th day of December, 2018.



Janis Hager
Legal Assistant

Exhibit A

From: Larsen, Penny (<mailto:Penny.Larsen@kingcounty.gov>) **On Behalf Of** Disclosure, Public
Sent: Monday, December 04, 2017 8:41 AM
To: Blair, Stephanie
Cc: Hager, Janis
Subject: RE: King County Public Records Request

Hello Stephanie,

I apologize for the delay, it was my intention to get back to you by Friday. Please see my responses to each item of your request below.

- 1 All public health notifications or announcements furnished to local hospitals or health care providers relating to unusual or rare diseases/conditions (in their original form--e.g. email, call log, letter) in the last 20 years;

Public Health Seattle-King County maintains a listserv to inform local health care providers (HCPs). Participation by HCPs is optional and these notifications are also posted on our website as advisories.

- a. Please view this link for health advisory notifications for HCPs from 2015-2017 <http://www.kingcounty.gov/depts/health/communicable-diseases/health-care-providers/advisories.aspx>.
I am retrieving these materials.
- b. We are gathering the notifications sent to the listserv subscribers and checking on the retention of older notification records, prior to the listserv.
Please send once available.

- 2 The data-including the number of confirmed cases-which led you to furnish each of the above notifications or announcements

- There is no formal protocol for furnishing notifications. If there are specific notifications/health advisories that you would like us to search for records, we can discuss what kind of data is available for specific notifications.
We will discuss internally and get back to you regarding data for specific notifications.

3. Documents establishing or relating to the financial cost of each of the above notifications or announcements

- We have no responsive records.

4. Documents establishing or relating to the time it took to prepare and furnish each of the above notifications or announcements.

- We have no responsive records.

- 5 Any changes to your policies with regard to public health notifications or announcements in the last 20 years.

- a. We implemented a policy regarding notifications of food borne illnesses in 2015, please let me know if you are interested in receiving the policy records.
Please send once available.
- b. We interpret this item to be for policy records about the listserv and notification policies prior to its implementation if available. If that is not correct, please clarify to help us identify records.
Please send once available.

6. All records or studies establishing that any of the above notifications or announcements had led to a public panic or other adverse consequences

- We have no responsive records or data establishing public panic or adverse consequences.

I estimate that records responsive will be available in approximately one week, or sooner if possible.

Exhibit B

INSIGHTS INTO HANTAVIRUS IN WASHINGTON STATE: EPIDEMIOLOGY AND PREVENTION

HANNA OLTEAN, MPH
WASHINGTON STATE DEPARTMENT OF HEALTH

VANCE KAWAKAMI, DVM, MPH
PUBLIC HEALTH – SEATTLE & KING COUNTY

PHSKC HPS CLUSTER SUMMARY

- No identifiable link between 3 cases in 2016–2017
- Lack of current data on deer mouse ecology in King County to explain HPS cluster
- Strong focus on public and HCP education and awareness is warranted when lab-confirmed cases are identified

PHSKC ROLE: CONFIRMED AND SUSPECTED HANTAVIRUS CASES

- Interview patient (or proxy if patient unavailable)
 - Identify risk factors and potential exposures
 - Identify other individuals and assess their hantavirus exposure risk
 - Provide education on symptoms of HPS and when to seek care
- Facilitate submission of specimens to Washington State Public Laboratories for confirmatory testing
- Environmental evaluation
 - Evidence of rodent infestation, specifically deer mice
- Hantavirus education on awareness, prevention and control
 - Healthcare providers
 - Public
 - Focus on eastern King County communities
 - Workplace-related exposure (e.g., mechanics, pest control workers, parks employees)

Exhibit C

From: Kay, Meagan
Sent: Wednesday, August 29, 2018 6:54 AM PDT
To: Chan, Mary (DOH)
CC: Kawakami, Vance; Boysun, Mike (DOH); Oltean, Hanna (DOH)
Subject: Re: hantavirus press releases [no phi]
Attachments: image002.png, image003.png, image004.png, image005.png

Thanks Mary,

Really appreciate you pulling this together. So the majority of hanta cases in WA are acquired locally and not travel associated? And it is more common than not to have a press release issued.

Based on data on hanta online that would mean only a couple of hanta cases were acquired through travel and I'm pretty sure KC has had a few of those since I've been here. Just want to make sure I understand the results.

Thanks again!
Meagan

On Aug 28, 2018, at 11:53 PM, Chan, Mary (DOH) <mary.chan@doh.wa.gov> wrote:

Hi Vance, Hi Meagan,

Following both online searches and phone interviews with relevant counties, below is the information that we have collected:

of hantavirus cases with in-county exposure: 23

- Information about press releases was available for 14: 13 had press releases, 1 did not
- Information about HANs/healthcare provider advisories was available for 13: 8 had advisories released, 5 did not

of hantavirus deaths with in-county exposure: 10

- Information about press releases was available for 9: all had press releases
- Information about HANs/healthcare provider advisories was available for 7: 5 had advisories released, 2 did not

We may be able to resolve a few of the unknowns on Wed; I will follow-up with you then!

Best,
Mary

From: Chan, Mary (DOH)
Sent: Tuesday, August 28, 2018 2:42 PM
To: vance.kawakami@kingcounty.gov; 'Meagan.Kay@kingcounty.gov'
<Meagan.Kay@kingcounty.gov>

Cc: Boysun, Mike (DOH) <Mike.Boysun@DOH.WA.GOV>; Oltean, Hanna (DOH) <Hanna.Oltean@DOH.WA.GOV>
Subject: hantavirus press releases [no phi]

Hi Vance, Hi Meaghan,

We are working on finalizing our investigation into whether or not counties issued press releases and/or advisories to providers following confirmation of hantavirus cases with in-county exposure.

Some of the cases are from a long time ago and some of this information may no longer be available. However, we'll aim to send you a count of known releases and/or advisories for each case later today. Feel free to contact me if you have any questions.

Best,
-Mary

Mary Chan, MPH

Epidemiologist, Zoonotic and Vectorborne Disease
Office of Communicable Disease Epidemiology
Division of Disease Control and Health Statistics
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<[image015.png](#)>

WILLIAMS KASTNER

December 17, 2018 - 3:25 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 96464-5
Appellate Court Case Title: Sandra Ehrhart v. King County, et al.
Superior Court Case Number: 18-2-09196-4

The following documents have been uploaded:

- 964645_Affidavit_Declaration_20181217152032SC744199_4412.pdf
This File Contains:
Affidavit/Declaration - Other
The Original File Name was Declaration_of_Rosenberg_iso_Estate_s_Response_to_Direct_and_Discretionary_Review.PDF
- 964645_Answer_Reply_20181217152032SC744199_6389.pdf
This File Contains:
Answer/Reply - Answer to Motion for Discretionary Review
The Original File Name was Respondent_Estate_s_Response_in_Opposition_to_Discretionary_Review.PDF

A copy of the uploaded files will be sent to:

- KGoodman@williamskastner.com
- athan.papailiou@pacificalawgroup.com
- bjenson@williamskastner.com
- chris@favros.com
- cphillips@bblaw.com
- dawn.taylor@pacificalawgroup.com
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Note: The Filing Id is 20181217152032SC744199