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 5      *Attorney for Defendant Albert W. Merkel*

FILED

2025 JUL 07 2025

Timothy W. Fitzgerald  
SPOKANE COUNTY CLERK6      **SUPERIOR COURT, STATE OF WASHINGTON**7      **COUNTY OF SPOKANE**

8      CITY OF SPOKANE VALLEY, a municipal      )  
 9      corporation,      )      Cause: 25-2-00710-32  
 10      vs.      Plaintiff,      )  
 11      ALBERT W. MERKEL, an individual,      )      MOTION FOR  
 12           Defendant.      )      PROTECTIVE ORDER TO  
 13           )      TEMPORARILY STAY  
 14           )      DISCOVERY AND MOTION  
 15           )      FOR ATTORNEY'S FEES  
 16           )  
 17           )

14      Defendant Albert W. Merkel ("Merkel"), by and through his attorney Patrick J. Kirby,  
 15      moves the Court for a Protective Order in the above captioned matter pursuant to CR 26(c) to  
 16      protect the Defendant from annoyance, embarrassment, oppression, and undue burden and  
 17      expense by an order prohibiting public disclosure of the following discovered materials:

18      (1) The Defendant's personal and private communications with his political groups and his  
 19      notes regarding his political activities and political beliefs, and the identities of the  
 20      member of his political groups, which are privileged and protected by his right to  
 21      privacy in freedom of group and political association and freedom of speech under the  
 22      First Amendment to the U.S. Constitution the contents which shall be designated as  
 23      "CONFIDENTIAL" and shall be not afforded public disclosure, including blanket

24      **MOTION FOR  
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 25      AND MOTION FOR  
 25      ATTORNEY'S FEES – 1**

1 protection from disclosure by the Plaintiff in response to public records requests until  
2 such time the Court conducts an *in camera* inspection of said CONFIDENTIAL material  
3 to determine whether any privilege applies and what if any materials constitute “public  
4 records” pursuant to RCW 42.56. *et seq.*, and any such CONFIDENTIAL material may  
5 be disclosed only to Plaintiff’s counsel of record in this action, and before filing  
6 CONFIDENTIAL material or discussing or referencing such material in court filings,  
7 the filing party shall confer with Defendant’s counsel in accordance with GR 15 and  
8 SCLGR 15 to determine whether the document can be redacted, or whether a motion to  
9 seal or stipulation and proposed order is warranted.

10 (2) The Defendant’s personal and private communications with others, and his notes which  
11 are protected Defendant’s right to privacy by RCW 42.56.050 and 42.56.230 and the  
12 Fourth and Fourteenth Amendments to U.S. Constitution, and invasion of private affairs  
13 protected by Washington State Constitution Article 1, Section 7 which shall be  
14 designated as “CONFIDENTIAL” and shall not be afforded public disclosure, including  
15 blanket protection from disclosure by the Plaintiff in response to public records requests  
16 until such time the Court conducts an *in camera* inspection of said CONFIDENTIAL  
17 material to determine whether any privilege applies and what if any materials constitute  
18 “public records” pursuant to RCW 42.56. *et seq.*, and any such CONFIDENTIAL  
19 material may be disclosed only to Plaintiff’s counsel of record in this action, and before  
20 filing CONFIDENTIAL material or discussing or referencing such material in court  
21 filings, the filing party shall confer with Defendant’s counsel in accordance with GR 15  
22 and SCLGR 15 to determine whether the document can be redacted, or whether a  
23 motion to seal or stipulation and proposed order is warranted.

24  
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(3) The Defendant's personal identifiers as defined in GR 22(b)(6) including Defendant's date and place of birth, and employment history marked and shall be designated as "CONFIDENTIAL" and shall not be afforded public disclosure, including blanket protection from disclosure by the Plaintiff in response to public records requests pursuant to RCW 42.56. *et seq.*, and the Plaintiff may disclose any such confidential material to Plaintiff's counsel of record in this action, and before filing confidential material or discussing or referencing such material in court filings, the filing party shall confer with Defendant's counsel in accordance with GR 15 and SCLGR 15 to determine whether the document can be redacted, or whether a motion to seal or stipulation and proposed order is warranted.

(4) The Plaintiff's opposition to Defendant's Motion For Protective Order was not substantially justified and therefore Defendant moves the Court to award him his attorney's fees in bringing his Motion For Protective Order and resisting Plaintiff's discovery requests and responding to Plaintiff's Motion To Compel Discovery.

This Motion is supported by the Defendant's Memorandum in support of his motion and the Declarations of Albert W. Merkel and Patrick J. Kirby dated and filed this date.

DATED this 7<sup>th</sup> day of July, 2025.

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## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 1 day of July, 2025, I caused to be served a true and correct copy of the foregoing document to the following:

HAND DELIVERY  
 U.S. MAIL  
 OVERNIGHT MAIL  
 FAXSIMILE  
 EMAIL

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PROTECTIVE ORDER  
AND MOTION FOR  
ATTORNEY'S FEES - 4**