

**FILED****AUG 04 2025**Timothy W. Fitzgerald  
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## SUPERIOR COURT OF WASHINGTON IN AND FOR SPOKANE COUNTY

CITY OF SPOKANE VALLEY, a municipal  
corporation,

Plaintiff,

v.

ALBERT W. MERKEL, an individual,

Defendant.

NO. 25-2-00710-32

ORDER GRANTING IN PART AND  
DENYING IN PART MOTION FOR  
PROTECTIVE ORDER TO  
TEMPORARILY STAY DISCOVERY  
AND MOTION FOR ATTORNEY'S  
FEES

THIS MATTER came for hearing before the above-entitled Court on July 18, 2025, upon the Motion for Protective Order to Temporarily Stay Discovery and Motion for Attorney's Fees filed by Defendant Albert W. Merkel, and the Court having reviewed the Court file, including the following:

1. Motion for Protective Order to Temporarily Stay Discovery CR 26(c) and Motion for Attorney's Fees;
2. Memorandum in support of Motion for Protective Order and Attorney's Fees;
3. Declaration of Albert W. Merkel in support of Motion for Protective Order;
4. Declaration of Patrick J. Kirby in support of Motion for Protective Order;
5. [Proposed] Order Granting Motion for Protective Order and Attorney's Fees;
6. Plaintiff's Response to Motion for Protective Order to Temporarily Stay Discovery and Motion for Attorney's Fees;

ORDER GRANTING IN PART AND DENYING  
IN PART MOTION FOR PROTECTIVE ORDER  
TO TEMPORARILY STAY DISCOVERY AND  
MOTION FOR ATTORNEY'S FEES: 1

LAW OFFICES OF  
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- 1           7.     Declaration of Reid G. Johnson in support of Plaintiff's Response to Motion for
- 2                 Protective Order to Temporarily Stay Discovery and Motion for Attorney's Fees;
- 3           8.     Declaration of Patricia Rhoades in support of Plaintiff's Response to Motion for
- 4                 Protective Order to Temporarily Stay Discovery and Motion for Attorney's Fees;
- 5           9.     Declaration of Jenny Nickerson in support of Plaintiff's Motion to Strike
- 6                 Declaration of Albert W. Merkel in support of Motion for Protective Order;
- 7           10.    Declaration of Jessica Yeager in support of Plaintiff's Motion to Strike
- 8                 Declaration of Albert W. Merkel in support of Motion for Protective Order;
- 9           11.    Declaration of John Hohman in support of Plaintiff's Motion to Strike Declaration
- 10                of Albert W. Merkel in support of Motion for Protective Order;
- 11           12.    Declaration of Kelly Konkright in support of Plaintiff's Motion to Strike
- 12                 Declaration of Albert W. Merkel in support of Motion for Protective Order;
- 13           13.    Declaration of Rod Higgins in support of Plaintiff's Motion to Strike Declaration
- 14                 of Albert W. Merkel in support of Motion for Protective Order; and
- 15           14.    Reply in support of Motion for Protective Order and Attorney's Fees.

17           And having reviewed the Court record and files herein, and hearing oral argument from  
18 the parties on July 18, 2025, the Court hereby GRANTS IN PART and DENIES IN PART  
19 Defendant's Motion for Protective Order to Temporarily Stay Discovery and Motion for  
20 Attorney's Fees.

21           IT IS HEREBY ORDERED that Defendant Albert W. Merkel's Defendant's Motion for  
22 Protective Order to Temporarily Stay Discovery and Motion for Attorney's Fees is GRANTED  
23 IN PART and DENIED IN PART, as follows:

- 24           1.     Defendant's Motion is GRANTED with respect to Defendant's request for  
25 protection from the public disclosure of Defendant's answers and responses to Plaintiff's discovery  
requests. Plaintiff is ordered to refrain from disclosing Defendant's answers to requests for

1 production of document and responses to interrogatories to the public until a final decision  
2 regarding public disclosure is ordered by the Court or agreed upon by the parties.

3 2. Defendant's Motion is DENIED with respect to Defendant's request for protection  
4 from disclosure of documents and communications to Plaintiff.

5 a. Defendant is ordered to conduct a search of his social media accounts, emails,  
6 and text messages for documents and communications that are responsive to  
7 Plaintiff's discovery requests.

8 b. Defendant is further ordered to produce to Plaintiff all documents and  
9 communications from his social media accounts, emails, and text messages that  
10 are responsive to Plaintiff's discovery requests.

11 c. To the extent Defendant believes certain documents and communications from  
12 his social media accounts, emails, and text messages are protected by  
13 Defendant's privacy interests, Defendant is ordered to produce a privilege log  
14 to Plaintiff with a brief description of the documents and communications,  
15 including any applicable (a) date, (b) time, (c) author(s), (d) recipient(s), and  
16 (e) subject matter description.

17 d. If the parties cannot agree about the discoverability of certain documents and  
18 communications based on Defendant's privilege log, Defendant is ordered to  
19 produce any disputed documents and communications to counsel for Plaintiff  
20 as "Attorneys' Eyes Only." Counsel for Plaintiff is ordered to refrain from  
21 disclosing any disputed documents and communications to anyone outside of  
22 Lukins & Annis, P.S., including the City of Spokane Valley.

23 e. If the parties still cannot agree about the discoverability of certain documents  
24 and communications marked as "Attorneys' Eyes Only," then the parties may  
25 file an appropriate motion with the Court.

3. Defendant's Motion is DENIED with respect to Defendant's request for a  
temporary stay in discovery.

ORDER GRANTING IN PART AND DENYING  
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MOTION FOR ATTORNEY'S FEES: 3

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4. Defendant's Motion is DENIED with respect to Defendant's request for an award of his attorney's fees and costs.

IT IS SO ORDERED.

DONE IN OPEN COURT this 7<sup>th</sup> day of July, 2025

Pauline & Armand

**HONORABLE JUDGE RACHELLE ANDERSON**

**Presented by:**

LUKINS & ANNIS, P.S.

By

**MICHAEL J. HINES, WSBA #19929**  
**REID G. JOHNSON, WSBA #44338**  
**ZAINE M. YZAGUIRRE, WSBA #58265**  
*Attorneys for Plaintiff City of Spokane Valley*

**Approved and Notice of Presentment Waived By:**

PATRICK J. KIRBY LAW OFFICE, PLLC

By Approved via email 7/28/25 at 12:26 p.m.

**PATRICK J. KIRBY, WSBA #24097**  
*Attorney for Defendant Albert W. Merkel*

ORDER GRANTING IN PART AND DENYING  
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TO TEMPORARILY STAY DISCOVERY AND  
MOTION FOR ATTORNEY'S FEES: 4

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