



FILED

AUG 04 2025

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

Per CR5(e) & Judge Anderson this document
Has been filed with Clerk on:

AUG 04 2025

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.

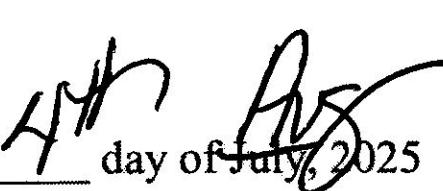
ORDER GRANTING IN PART AND DENYING
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MOTION FOR ATTORNEY'S FEES: 3

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

3
4 IT IS SO ORDERED.

5 DONE IN OPEN COURT this 4th day of July, 2025

6 
7 Rachelle Anderson

8
9
10 HONORABLE JUDGE RACHELLE ANDERSON

11 Presented by:

12 LUKINS & ANNIS, P.S.

13 By 
14 MICHAEL J. HINES, WSBA #19929
15 REID G. JOHNSON, WSBA #44338
16 ZAINA M. YZAGUIRRE, WSBA #58265
17 *Attorneys for Plaintiff City of Spokane Valley*

18 Approved and Notice of Presentment Waived By:

19 PATRICK J. KIRBY LAW OFFICE, PLLC

20
21 By Approved via email 7/28/25 at 12:26 p.m.
22 PATRICK J. KIRBY, WSBA #24097
23 *Attorney for Defendant Albert W. Merkel*

24
25
ORDER GRANTING IN PART AND DENYING
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MOTION FOR ATTORNEY'S FEES: 4

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