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MAY 02 2025 MAY -2 A 9:39

Timothy W. Fitzgerald
 SPOKANE COUNTY CLERK

THOMAS W. FITZGERALD
 SPOKANE COUNTY CLERK

6 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,

)
) DECLARATION OF
) ALBERT W. MERKEL
) IN SUPPORT OF MOTION
) FOR ATTORNEYS' FEES
) AND COSTS

11 ALBERT W. MERKEL, an individual,
 12 Defendant.

)
)

13 I, ALBERT W. MERKEL, DECLARE AS FOLLOWS.
 14

15 1. I am over 18 years of age, am competent to testify to the matters herein and have
 16 personal knowledge of the same.

17 2. I am the Defendant in the above-captioned matter.

18 3. On February 4, 2025, the City Council for the City of Spokane Valley ("City")
 19 authorized the above captioned lawsuit to be filed against me.

20 4. On February 5, 2025, I sent an email to the City Attorney Kelly Konkright and the
 21 City Manager John Hohman attaching a letter providing notice to the City that if the City filed a
 22 lawsuit against me, I would take legal action for recovery of my attorneys' fees for a responding
 23 to a frivolous lawsuit.

24 DECLARATION OF
 25 ALBERT W. MERKEL - 1

1 5. Attached hereto as Exhibit "A" is a true, correct, and complete copy of my
2 February 5, 2025, email and letter I sent to City Attorney Kelly Konkright and City Manager
3 John Holman.

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

6 DATED this 11 day of ~~April, 2025~~, at Spokane, Washington.

ALBERT W. MERKEL

**DECLARATION OF
ALBERT W. MERKEL - 2**



EXHIBIT “A”

Patrick J. Kirby

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Albert Merkel
Sent: Wednesday, February 5, 2025 4:36 PM
To: John Hohman <jhohman@spokanevalleywa.gov>; Kelly Konkright <kkonkright@spokanevalleywa.gov>
Cc: Timothy Clouser <tclouser@thecentersquare.com>; nickg@spokesman.com; Aaron News range <aaron.hedge@gmail.com>; cheneypress <news@cheneyfreepress.com>; news4 <News4@kxly.com>; newstips@krem.com; khq6 <q6news@khq.com>; andrew.baertlein@khq.com; Victor Corral Martinez <victorc@inlander.com>; reporter2@cheneyfreepress.com; Noah Corrin <noah.corrin@nonstoplocal.com>; mreed@kxly.com; Shannon moudy <smoudy@krem.com>
Subject: Letter Concerning last night's continued misuse of taxpayer funds

Dear All,

Please see attached concerning last night's misuse of city resources.

Al Merkel | City Council Pos 3

10210 E. Sprague Avenue | Spokane Valley, WA 99206

(509) 828-0097 | amerkel@spokanevalleywa.gov



This email and any attachments may be subject to disclosure pursuant to Washington State's Public Record Act, chapter 42.56 RCW

Any opinions expressed in this email are intended to only express the opinion of Al Merkel. No opinions, positions, or perspectives expressed shall be construed as the position or a commitment from the city or the council as a whole.

Al Merkel

Spokane Valley City Council Member
3927 S Sunderland Dr Spokane Valley
al@alforval.com

February 5, 2025

To:

John Hohman, Spokane Valley City Manager
Kelly Konkright, Spokane Valley City Attorney
Spokane Valley City Council

Subject: Continuing and Shifting Demands Regarding My Personal Nextdoor Account, My attempts to comply, and notification that I will protect my civil rights.

Dear Mr. Hohman, Mr. Konkright, and Members of the Spokane Valley City Council,

I am writing to formally document my repeated efforts to comply with the City's ever-changing demands regarding my personal Nextdoor account, as well as to express my firm belief that this entire matter is a politically motivated abuse of City resources and a clear violation of my civil rights.

Chronology of Compliance Attempts and the City's Shifting Demands

- **December 13, 2024:** Hearing Examiner Andy Kottkamp ruled, incorrectly in my view, that I must connect my Nextdoor account to PageFreezer, in accordance with the City's request. This ruling was based on the fact that I was not able to produce expert witnesses in my favor despite the fact that I was in fact not allowed to subpoena such witnesses.
- **December 19, 2024:** Under protest, I announced that I would comply and register my account with PageFreezer as requested.
- **December 20, 2024:** My Nextdoor account was suspended due to malicious flagging and moderation attacks, leaving me without access to my posts or information.
- **December 23, 2024:** Despite this, you sent a demand letter requiring me to register my account with PageFreezer and provide all content by January 10, 2025.
- **January 3, 2025:** I informed you that I no longer had access to my original account but had signed up for a new Nextdoor account and had worked with City IT to connect that account to PageFreezer. You acknowledged this and stated that I had finally brought my account into compliance.
- **January 8, 2025:** You then claimed that the City had screenshots of my posts and that a Nextdoor group I was part of was a separate account (which it was not). You requested that I download my data from Nextdoor. I responded that I had no access and provided my login credentials so that the City could verify my lack of access.
- **January 9, 2025:** You stated that Attorney Konkright would contact me for two-factor authentication.

- **January 13, 2025:** I had a call with Attorney Konkright, who verified that I had no access to my original account and requested that I provide a download of my data whenever it became available.
- **January 28, 2025:** Nextdoor informed me that my City email-linked account was considered a duplicate and would be deleted, but they restored my original account. I requested keeping both or merging them, but both requests were denied by nextdoor. I was able to download my data and immediately sent it to you, along with the information needed to connect my restored account to PageFreezer.
- **January 30, 2025:** Attorney Konkright confirmed that they would connect my personal nextdoor to PageFreezer, but suddenly determined that the data set I provided was "not enough" despite it being exactly what he had originally requested. Furthermore, despite my compliance in connecting my account to PageFreezer as directed, I was told that I am now not supposed to talk about the City.

Pattern of Moving the Goalposts

This process has revealed a **continually moving bar** for compliance:

1. First, I was told I needed to connect my account to PageFreezer. I did. Then that was **not enough**.
2. Then, I was told I needed to provide a Nextdoor data download. I did. Then that was **not enough**.
3. Finally, I gave you my **login credentials**, allowing full City access. Yet somehow, even that was **not enough**.

No Public Record, No City Business, No Authority to Conduct City Business

It is my sincere and firm belief that nothing in my **personal** Nextdoor account constitutes a **public record** or contains **City business transactions**—especially since, as a **lone councilmember**, I have no authority to conduct official City business on my own. The claim that my personal Nextdoor account falls under public records laws is baseless.

Freedom of Speech & Equal Protection Violations

Additionally, this action constitutes a **direct violation of my constitutional rights** under:

- **The First Amendment** – I have the right to **freedom of speech**, including discussing matters of public concern. The City has no right to dictate what I can or cannot say on my personal account.
- **The Equal Protection Clause (Fourteenth Amendment)** – This **targeted enforcement** against me, while others are not subject to the same demands, is a **clear case of selective enforcement and political discrimination**.

This is a Political Attack, Not a Legitimate Public Records Issue

The shifting demands, the City's refusal to accept clear compliance at every turn, and the attempt to silence my speech all demonstrate that this is not about public records but about **suppressing my voice**. This is a **waste of taxpayer dollars** and a **blatant abuse of City resources** for political purposes.

Notice of Legal Action if City Continues This Course

If the City persists in this unlawful and retaliatory course of action, I will seek **full legal redress** for:

- **Attorney's fees**
- **All damages resulting from this violation of my civil rights**
- **Any further costs incurred due to this abuse of power**

This **politically motivated attack** must end now. I have fully complied at every step, despite my objections. The City's continued bad-faith demands are a misuse of taxpayer resources. If the City files a lawsuit against me I will file counterclaims for violations of my civil rights, frivolous action, and seek judgment for recovery of my actual damages and my attorneys' fees.

Sincerely,



Al Merkel

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1st day of May, 2025, I caused to be served a true

3 and correct copy of the foregoing document to the following:

HAND DELIVERY
 U.S. MAIL
 OVERNIGHT MAIL
 FAXSIMILE
 EMAIL

LUKINS & ANNIS, P.S.
Reid G. Johnson, WSBA # 44338
Michael J. Hines, WSBA #19929
Zaine M. Yzaguirre, WSBA #58265
717 W. Sprague Ave., Suite 1600
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**DECLARATION OF
ALBERT W. MERKEL - 3**

