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Timothy W. Fitzgerald  
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*Attorney for Defendant Albert W. Merkel*

**SUPERIOR COURT, STATE OF WASHINGTON****COUNTY OF SPOKANE**

8 CITY OF SPOKANE VALLEY, a municipal )  
 corporation, ) **Cause: 25-2-00710-32**  
 9 Plaintiff, )  
 10 vs. )  
 11 ALBERT W. MERKEL, an individual, ) **DECLARATION OF  
 12 Defendant. ) PATRICK J. KIRBY  
 13 ) IN SUPPORT OF MOTION  
 14 ) FOR PROTECTIVE ORDER**

I, PATRICK J. KIRBY, DECLARE AS FOLLOWS.

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 attorney of record for Defendant Albert W. Merkel ("Merkel") in the  
 18 above-captioned matter.

19 3. On February 11, 2025, the Plaintiff City of Spokane Valley ("City") filed its  
 20 Complaint in the above-captioned matter.

21 4. On March 21, 2025, the counsel for the City served upon me Plaintiff's First Set  
 22 of Interrogatories ("ROGs") and Requests For Production of Documents ("RFPs"), which  
 23 included 24 interrogatories and 30 RFPs, not including subparts.

24 **DECLARATION OF  
 25 PATRICK J. KIRBY – 1**

1       5.     On April 3, 2025, Merkel filed and served his CR 12(b)(6) Motion To Dismiss  
2 the City's Complaint.

3       6.     On April 7, I sent an email to counsel for the City requesting a CR 26(i) phone  
4 conference to discuss the City's discovery requests.

5       7.     On April 9, 2025, I sent an email to Plaintiff's counsel requesting a stipulation to  
6 stay discovery pending the Court's ruling on Merkel's CR 12(b)(6) Motion To Dismiss, and for  
7 60 days thereafter if the motion is denied to protect Merkel from the undue burden and expense  
8 of answering, responding, and objection to Plaintiff's First Set of ROGs and RFPs.

9       8.     On April 14, 2025, Plaintiff's counsel Reid Johnson agreed by email to extend  
10 time for Merkel to answer and respond to Plaintiff's ROGs and RFPs until thirty days after the  
11 May 9, 2025, hearing on Defendant's Motion To Dismiss.

12       9.     On May 27, 2025, I sent Plaintiff's counsel requesting to stipulate to staying  
13 discovery in this matter until after the Court hears and rules on Defendant's Motion To Dismiss  
14 to save Defendant the unnecessary expense of additional attorney's fees preparing answers,  
15 responses, and objections to Plaintiff's discovery request in the event the Court grants  
16 Defendant's Motion To Dismiss, or in the alternative to extend time an additional 30 days after  
17 July 18, 2025, if the Court denies Defendant's Motion To Dismiss; to which Plaintiff's counsel  
18 did not respond.

19       10.    On June 9, 2025, I served by hand delivery and by email upon Plaintiff's counsel  
20 Defendant's Answers, Responses, and Objections to Plaintiff's ROGs and RFPs.

21       11.    Later on June 9, 2025, I sent Plaintiff's counsel an email again requesting Plaintiff  
22 to stipulate to a protective order extending time until after the July 18, 2025, hearing on  
23 Defendant's Motion To Dismiss, for Merkel to answer or respond to Plaintiff's discovery

1 requests, and to further stipulate to a protective order which prevents the disclosure to Defendant  
2 Merkel's private electronic communications from public records disclosure until the Court has an  
3 opportunity to review such communications to determine if they are "public records" and to  
4 protect Mr. Merkel's right to privacy protected by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and  
5 14<sup>th</sup> Amendments to the U.S. Constitution, and Article 1, Section 7 of the Washington State  
6 Constitution.

7 12. On June 24, 2025, Plaintiff's counsel Reid Johnson replied to my earlier emails  
8 agreeing to extend the time until two weeks after July 18, 2025, hearing on Defendant's Motion  
9 To Dismiss for Defendant Merkel to produce responsive records.

10 13. Later June 24, 2025, I sent a reply email to Plaintiff's counsel again requesting  
11 Plaintiff to stipulate a protective order preventing public disclosure of Mr. Merkel's private  
12 electronic communications until the Court may conduct an *in camera* inspection.

13 14. On June 26, 2025, Plaintiff's counsel Reid Johnson sent me a reply email  
14 indicating Plaintiff City of Spokane Valley will not stipulate to a protective order preventing the  
15 public disclosure of Defendant Merkel's private and confidential private communications until  
16 after the Court conducts an *in camera* inspection of such materials to determinate what, if any,  
17 constitutes "public records" under RCW 42.56 *et seq.*

18 15. On June 30, 2025, Plaintiff's counsel Reid Johnson and Zaine Yzaguirre and I  
19 attended a telephonic discovery conference pursuant to CR 26(i), during which I indicated to  
20 Plaintiff's counsel that Defendant Merkel would cooperate with the Plaintiff City in producing  
21 *data for his Next Door social media account*; however, Defendant Merkel objected to producing  
22 copies of his personal and private communications with his political groups regarding his  
23 political activities and political beliefs, and the identities of the member of his political groups,

24  
25 **DECLARATION OF  
PATRICK J. KIRBY – 3**

1 which are privileged and protected by his right to privacy in freedom of group and political  
2 association and freedom of speech under the First Amendment to the U.S. Constitution; and  
3 Defendant Merkel objected to producing copies of his personal and private communications with  
4 others protected Defendant's right to privacy by RCW 42.56.050 and 42.56.230 and the Fourth  
5 and Fourteenth Amendments to U.S. Constitution, and invasion of private affairs protected by  
6 Washington State Constitution Article 1, Section 7.

7 16. During our June 30, 2025, telephonic discovery conference Plaintiff's counsel  
8 Reid Johnson refused to recognize Defendant Merkel's objections to Plaintiff's discovery  
9 requests and demanded Defendant Merkel respond to Plaintiff's RFP's without any protection  
10 from public disclosure.

11 17. On July 1, 2025, Plaintiff's counsel Reid Johnson sent an email to me indicating  
12 that he would check with his client to determine whether Mr. Merkel's cooperation in providing  
13 the Plaintiff City with downloading all the data on his Next Door social media account would  
14 satisfy Plaintiff City; however, Attorney Reid also indicated in his email that he expected Mr.  
15 Merkel to respond fully Plaintiff's RFPs regardless of Defendant Merkel's objections based upon  
16 his right to privacy.

17 18. On July 1, 2025, I served by hand-delivery and by email upon Plaintiff's counsel  
18 Defendant's First Supplemental Answers Responses and Objections to Plaintiff's ROGs & RFPs  
19 and attached hereto as Exhibit "A" is true, correct, and complete copy of same.

20 19. On July 2, 2025, Plaintiff's counsel Zaine Yzaguirre sent me an email asking  
21 whether Defendant Merkel would cooperate in providing the Plaintiff City with the log in  
22 credentials for Defendant Merkel's other social media accounts (two Facebook, X, Instagram,  
23 TikTok, LinkedIn, and YouTube).

24  
25 **DECLARATION OF  
PATRICK J. KIRBY – 4**

1       20.     Later on July 2, 2025, I sent a reply email to Plaintiff's counsel indicating that  
2     Defendant Merkel will cooperate in providing the Plaintiff City with all the data from his Next  
3     Door social media account because there are no private communications that platform, and  
4     further Defendant Merkel would cooperate in providing the Plaintiff City with access to the data  
5     for all his public postings on all his social media accounts however Defendant Merkel needed  
6     technical assistance from the City to prevent the downloading of his private communications on  
7     his social media accounts.

8       21. Attached hereto as Exhibit "B" is a true, correct, and complete copy of my  
9 emails to and from Plaintiff's counsel referred and described above herein.

10 22. No Civil Case Schedule Order has been entered in this matter and no discovery  
11 cutoff date has been set by the Court.

12 23. Merkel has incurred considerable time and effort and attorneys' fees in answering,  
13 responding, and objecting to Plaintiff's First Set of ROGs and RFPs, conferring with Plaintiff's  
14 counsel and preparing a Motion For Protective Order and its supporting documents—all of  
15 which could have been avoided if Plaintiff's counsel stipulated on or before June 9, 2025 to  
16 extending time until after the July 18, 2025, hearing on Defendant' Motion To Dismiss for  
17 Defendant Merkel to answer, respond and object to Plaintiff City's ROGs & RFPs.

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

20 DATED this 7<sup>th</sup> day of July, 2025, at Spokane, Washington.

**PATRICK J. KIRBY**



## **DECLARATION OF PATRICK J. KIRBY - 5**

## **EXHIBIT “A”**

1  
2                   **RECEIVED**  
3  
4

5                   JUL 1 2025  
6  
7

8                   Lukins & Annis, P.S.  
9  
10

11                   **SUPERIOR COURT OF WASHINGTON IN AND FOR SPOKANE COUNTY**  
12

13                   **CITY OF SPOKANE VALLEY, a municipal**  
14                   **corporation,**

15                   **NO. 25-2-00710-32**

16                   **Plaintiff,**

17                   **PLAINTIFF'S FIRST SET OF**  
18                   **INTERROGATORIES AND REQUESTS**  
19                   **FOR PRODUCTION OF DOCUMENTS**  
20                   **TO DEFENDANT**  
21                   **DEFENDANT'S FIRST**  
22                   **SUPPLEMENTAL ANSWERS,**  
23                   **RESPONSES AND OBJECTIONS-**  
24                   **THERETO**

25                   **v.**

1                   **ALBERT W. MERKEL, an individual,**

2                   **Defendant.**

3                   **TO: DEFENDANT ALBERT W. MERKEL**

4                   **AND TO: PATRICK J. KIRBY and PATRICK J. KIRBY LAW OFFICE, PLLC, your**  
5                   **counsel of record.**

6                   Plaintiff City of Spokane Valley ("Plaintiff") hereby requests that you respond to the  
7                   following interrogatories and requests for production of documents.

8                   The following interrogatories are served pursuant to Civil Rule 33. To facilitate  
9                   preparation of answers and responses, Plaintiff will provide an electronic copy of this document.  
10                  Please insert your answers in the space provided following each interrogatory. Completed  
11                  responses should be served on the undersigned counsel. Each interrogatory is to be answered  
12                  in the space provided.

13                  **PLAINTIFF'S FIRST SET OF INTERROGATORIES**  
14                  **AND REQUESTS FOR PRODUCTION OF**  
15                  **DOCUMENTS TO DEFENDANT FIRST SUPPL.**  
16                  **ANSWERS, RESPONSES AND OBJECTIONS**  
17                  **THERETO: 1**

18                  LAW OFFICES OF  
19                  **LUKINS & ANNIS, PS**  
20                  A PROFESSIONAL SERVICE CORPORATION  
21                  717 W Sprague Ave., Suite 1600  
22                  Spokane, WA 99201  
23                  Telephone: (509) 455-9555  
24                  Fax: (509) 747-2323

1 fully and separately, in writing and under oath, within thirty (30) days after service of these  
2 interrogatories upon you.

3 Pursuant to CR 34, Plaintiff further requests that you, within thirty (30) days of service  
4 of these requests for production, produce for inspection and copying the documents described  
5 below at the offices of Lukins & Annis, 717 W. Sprague Ave., Suite 1600, Spokane, WA 99201.  
6 For the convenience of the parties and to avoid unnecessary burden and expense, the undersigned  
7 counsel is open to alternative methods of production and would be pleased to discuss a mutually  
8 agreeable production protocol.

9 **DEFINITIONS**

10 The following definitions and instructions are intended to supplement those set forth in  
11 the Civil Rules and Local Civil Rules, and are not intended to broaden such definitions and  
12 instructions. For purposes of these interrogatories and requests for production, the following  
13 terms shall have the following meanings.

14 a. The singular includes the plural and vice versa. The masculine includes the  
15 feminine gender. The past tense includes the present tense where the clear meaning is not  
16 distorted by the change of tense.

17 b. "Person" means any individual, corporation, partnership, association, business  
18 and/or governmental agency.

19 c. "You" and "your" means Defendant Albert W. Merkel ("Defendant") and/or any  
20 person, including your employees, attorneys, agents, and/or representatives acting on  
21 Defendant's behalf.

22 d. "The City" means Plaintiff City of Spokane Valley and/or any person, including  
23 its employees, attorneys, agents, and/or representatives acting on its behalf.

24 e. "Complaint" means the Complaint filed by Plaintiff in Spokane County Superior  
25 Court under Case No. 25-2-00710-32 on or about February 11, 2025.

**PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 2**

LAW OFFICES OF  
**LUKINS & ANNIS, PS**  
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1       f.     “Document” is defined to be synonymous in meaning and equal in scope to the  
2 usage of this term in CR 34(a), including, but not limited to, emails, text messages, social media  
3 communications, electronic or computerized data compilations, databases, charts, voice  
4 recordings, video recordings, photographs, calendars, facsimiles, handwritten notes, and other  
5 information stored in either tangible or intangible form. The definition specifically includes  
6 documents stored on personal and business computers, email accounts, smartphones, personal  
7 digital assistants, portable USB “thumb” drives, CDs, DVDs, and other electronic storage media.

8       g.     “Communication” refers to the oral or written transmittal of information (in the  
9 form of facts, ideas, inquiries, or otherwise) regardless of form (e.g., emails, letters, notes,  
10 telephone conversations, social media posts and messages, *etc.*), including, without limitation,  
11 all correspondence and conversations.

12      h.     “Concerning” means referring to, relating to, describing, regarding, evidencing,  
13 reflecting, constituting, documenting, or recording.

14      i.     With respect to these Interrogatories, to “identify” means:

15       (1)    With respect to documents: to provide separate identification of the date  
16 of each document, its title, its format, the authors and recipients, its location, and its general  
17 contents. In lieu of identifying a document, you may attach a copy of such document(s) to your  
18 answers to these Interrogatories.

19       (2)    With respect to communications: to provide the date of each  
20 communication; its general contents; the means of communication; the person who initiated the  
21 communication and each other person who was a participant or recipient; any document  
22 reflecting or referring to the communication; and its precise words. For communications in a  
23 document or other tangible form, you may attach a copy of such document to your answers to  
24 these Interrogatories in lieu of identifying the communications.

25  
  
PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 3

LAW OFFICES OF  
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(3) With respect to persons: to provide the name of the person, his or her present or last known address, and his or her present or last known phone number.

j. To the extent these requests employ terms used in the Complaint, such use is without prejudice to the rights of Plaintiff.

## INSTRUCTIONS

1. These Requests require you to produce all documents that are in your actual or constructive possession, custody, or control or in the possession, custody, or control of your attorneys, accountants, representatives, consultants, agents, employees, or any person(s) acting on your behalf. **Plaintiff will move the Court to exclude the testimony of any person not identified or evidence not disclosed in answers to these Interrogatories and Requests. Plaintiff will move to dismiss any defenses or claims related to any requested documents within Defendant's possession, custody or control that Defendant fails to produce or identify specifically on a privilege log in response to these requests, and will move to exclude any other evidence offered by Defendant related to such documents.**

2. Documents produced in hard copy must be organized either by category as requested or as they are kept in the normal course of business. If documents are copied before production, then any titles, labels, or other descriptions on any box, folder, binder, file cabinet, or other container must also be copied and kept with the documents to which they correspond so that Plaintiff can readily determine how they were originally organized. As noted, the terms "documents" or "records" include, among other information, information stored in machine-readable form. In determining where responsive documents in this form might be located, consider whether you have any equipment or media which contain "documents" as defined herein, including but not limited to:

a. Desktop personal computers (PCs) or workstations; PCs, workstations, minicomputers, or mainframes used as file servers, application servers, or electronic mail servers;

**PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 4**

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1 other minicomputers and mainframes; laptop, notebook, and other portable computers; and home  
2 computers used for work-related purposes.

3                   b.     External hard drives, flash drives or "thumb" drives, CDs, DVDs,  
4 removable memory cards, optical storage devices, backup disks and tapes, archival disks and  
5 tapes, and other forms of offline storage, whether stored with the computers used to generate  
6 them or in another facility or by a third party;

7                   c.     Smartphones, tablet computers, or personal digital assistants; and

8                   d.     Electronic mail messages and calendars, even if available only on backup  
9 or archive disks or tapes.

10                  3.     If you withhold any of the requested documents from production under a claim of  
11 privilege or other protection, you must provide a privilege log individually listing all withheld  
12 documents and indicating, for each document withheld, the following information if known or  
13 available to you: (1) date composed or date appearing on the document; (2) the author and all  
14 recipients of the document or information; (3) the form of the document or communication (such  
15 as a memorandum, letter, e-mail, voice recording, *etc.*); (4) a general description of the content  
16 of the document or the information withheld; and (5) state the privilege upon which you rely and  
17 the grounds for the assertion of such privilege.

18                  4.     When a document contains both privileged and non-privileged material, the non-  
19 privileged material must be disclosed to the fullest extent possible without thereby disclosing the  
20 privileged material. If a privilege is asserted with regard to part of the material contained in a  
21 document, the party claiming the privilege must clearly indicate the portions as to which the  
22 privilege is claimed, and list the document on the privilege log as set forth in the preceding  
23 paragraph. When a document has been redacted or altered in any fashion, identify as to each  
24 document the reason for the redaction or alteration. Any redaction must be clearly visible on the  
25 redacted document.

**PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 5**

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1       5. You are reminded of your duty to supplement your responses as necessary under  
2 CR 26(e).

3       6. Unless otherwise specified herein, these requests for production call for the  
4 production of the original (including "native" format with all metadata intact for any and all  
5 electronically stored information); an identical copy, if the original is not available; and all non-  
6 identical copies of any requested document. (A "non-identical copy" is a document initially  
7 identical in every aspect to another document, but no longer identical by virtue of a signature,  
8 notation, marking, or modification of any kind, including, but without limitation, notes,  
9 interlineations, or modifications on the face, back or margins of pages thereof or copies thereof,  
10 blind carbon copy notations or attachments.)

11       7. If you elect to answer any interrogatory pursuant to CR 33(c), your response must  
12 identify in sufficient detail the particular documents from which you believe Plaintiff may  
13 ascertain the answer.

14       8. If you cannot answer an interrogatory in full, you must answer it to the fullest  
15 extent possible, specify the reasons for your inability to answer the remainder, and state whatever  
16 information or knowledge you have concerning the unanswered portion.

17       9. In response to each request, you are compelled to produce a hard copy of such  
18 documents and an electronic version (together with any electronically stored information), if it  
19 exists in electronic form. Electronic data should be produced via disc, thumb drive, or via email  
20 production and formatted in native file format with all metadata intact.

21       //  
22       //  
23       //  
24       //  
25       //

**PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 6**

LAW OFFICES OF  
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Spokane, WA 99201  
Telephone: (509) 455-9555  
Fax: (509) 747-2323

1 DATED this 21st day of March, 2025.

2 LUKINS & ANNIS, P.S.

3  
4 By: \_\_\_\_\_  
5 REID G. JOHNSON, WSBA #44338  
6 MICHAEL J. HINES, WSBA #19929  
7 ZAINE M. YZAGUIRRE, WSBA #5826  
8 *Attorneys for the City of Spokane Valley*

9  
10 **INTERROGATORIES AND**  
**REQUESTS FOR PRODUCTION OF DOCUMENTS**

11 **INTERROGATORY NO. 1:** Please provide the name(s), address(es), email addresses,  
12 and telephone number(s) of each person who participated in any way in preparing answers or  
13 responses to the following interrogatories and requests for production.

14

15 • **ANSWER:** *ALBERT W. MERKEL, 10210 East Sprague Avenue, Spokane*  
*Valley, WA 992016, [amerkel@spokanevalleywa.gov](mailto:amerkel@spokanevalleywa.gov), (509)-720-5000.*

16  
17  
18 **INTERROGATORY NO. 2:** Please state the name(s), address(es), email address(es),  
19 and telephone number(s) of each person known to you who has knowledge of the facts and  
20 circumstances at issue in the above-referenced case (including, but not limited to, the facts and  
21 circumstances at issue in the Complaint), and for each such person, please identify your  
22 understanding of the specific knowledge and facts possessed.

23 **ANSWER:**

24  
25

PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 7

LAW OFFICES OF  
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Telephone: (509) 455-9555  
Fax: (509) 747-2323

- 1      • **KELLY KONKRIGHT, 10210 E. Sprague Avenue, Spokane Valley, WA**  
2      **99206, kkonkright@spokanevalleywa.gov.**
- 3      • **JOHN HOHMAN, 10210 East Sprague Avenue, Spokane Valley, WA 992016,**  
4      **jhohman@spokanevalleywa.gov, (509)-720-5000.**
- 5      • **REBECCA DEAN, 2212 Queen Avenue North, #158, Seattle, WA 98109,**  
6      **rebeccadean@comcast.net, (206)-456-3594.**
- 7      • **ANDREW L. KOTTKAMP, 435 Orondo Avenue, P.O. Box 1667, Wenatchee,**  
8      **WA 98801, andy@wenatcheelaw.com, (509)-667-8667.**
- 9      • **JAMES B. KING, 818 W. Riverside, Suite 250, Spokane, WA 99201,**  
10     **jking@ecl-law.com, (509)455-5200.**
- 11     • **ROD HIGGINS, 10210 East Sprague Avenue, Spokane Valley, WA 992016,**  
12     **rhiggins@spokanevalleywa.gov, (509)-720-5000.**
- 13     • **JESSICA YAEGER, 10210 East Sprague Avenue, Spokane Valley, WA**  
14     **992016, jyaeger@spokanevalleywa.gov, (509)-720-5000.**
- 15     • **ALBERT W. MERKEL, 10210 East Sprague Avenue, Spokane Valley, WA**  
16     **992016, amerkel@spokanevalleywa.gov, (509)-720-5000.**
- 17     • **BEN WICK, 10210 East Sprague Avenue, Spokane Valley, WA 992016,**  
18     **bwick@spokanevalleywa.gov, (509)-720-5000.**
- 19     • **PAM HALEY, 10210 East Sprague Avenue, Spokane Valley, WA 992016,**  
20     **phaley@spokanevalleywa.gov, (509)-720-5000.**
- 21     • **TIM HATTENBURG, 10210 East Sprague Avenue, Spokane Valley, WA**  
22     **992016, thattenburg@spokanevalleywa.gov, (509)-720-5000.**
- 23     • **LAURA PADDEN, 10210 East Sprague Avenue, Spokane Valley, WA 992016,**  
24     **lpadden@spokanevalleywa.gov, (509)-720-5000.**

16  
17     **INTERROGATORY NO. 3:** Please provide the name(s), current address(es), email  
18     addresses, and current telephone number(s) of persons expected to be called as witnesses at trial.  
19     For each such person, please provide the event or facts upon which such person is expected to  
20     testify.

21     **OBJECTION:** Seeks information protected by the attorney work product privilege  
22     and for Defendant to put on dress rehearsal for trial. *Weber v. Biddle*, 72 Wn.2d 22,  
23     29, 431 P.2d 705 (1967).

24     **ANSWER:** Defendant will supplement and will disclose lay and expert witnesses  
25     pursuant to the Civil Case Schedule Order.

PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 8

LAW OFFICES OF  
**LUKINS & ANNIS, PS**  
A PROFESSIONAL SERVICE CORPORATION  
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1  
2  
3 **INTERROGATORY NO. 4:** Do you expect to call expert witnesses at the time of trial?  
4

5 If so, for each expert witness, please state:  
6

7 (a) the name(s), email address(es), and phone number(s) of each such expert;  
8 (b) the subject matter on which said experts are expected to testify;  
9 (c) the substance of the facts and opinions on which the experts are expected to  
10 testify; and  
11 (d) a summary of the grounds for each opinion.

12 **OBJECTION:** Seeks information protected by the attorney work product privilege  
13 and for Defendant to put on dress rehearsal for trial. *Weber v. Biddle*, 72 Wn.2d 22,  
14 29, 431 P.2d 705 (1967).

15 **ANSWER:** Defendant will supplement and will disclose lay and expert witnesses  
16 pursuant to the Civil Case Schedule Order.

17 **INTERROGATORY NO. 5:** For each expert identified, please describe in full the  
18 person's background, training, and experience that permits the person to render the opinions to  
19 which he or she is expected to testify at trial.

20 **ANSWER:** Defendant will supplement and will disclose lay and expert witnesses  
21 pursuant to the Civil Case Schedule Order.

1                   **RFP NO. 1:** For each expert identified in response to Interrogatory Nos. 4 and 5, please  
2 produce all documents:

- 3                   (a) provided to such expert;
- 4                   (b) that constitute, refer to, or reflect the opinions of such expert in this matter;
- 5                   (c) that constitute or refer to the textbooks, treatises, articles, and other works that the  
6                   expert regards as authoritative on the subject matter on which the expert will be  
7                   testifying;
- 8                   (d) that constitute, refer to, or reflect the opinions of the expert in other lawsuits in  
9                   which he or she has been retained;
- 10                  (e) that refer to or reflect the qualifications or expertise of the expert, including the  
11                  CV for the expert;
- 12                  (f) that reflect or relate to any work done in this matter by such expert, regardless of  
13                  whether such documents were ultimately relied upon by the expert;
- 14                  (g) and that relate in any way to any payments made to the expert, including invoices  
15                  and billing records relating to work done by the expert.

16                  **RESPONSE:** Defendant will supplement and will disclose lay and expert witnesses  
17                  pursuant to the Civil Case Schedule Order.

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PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 10

LAW OFFICES OF  
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A PROFESSIONAL SERVICE CORPORATION  
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Spokane, WA 99201  
Telephone: (509) 455-9555  
Fax: (509) 747-2323

**INTERROGATORY NO. 6:** For each expert identified above, please identify any other legal proceedings in which the expert has testified, either in deposition, arbitration, or in trial, to opinions within the same subject matter as the subject matter upon which he or she is expected to testify herein. For each such legal proceeding, please provide the case name, the court, the case number, the name and address of each party's counsel.

**ANSWER:** Defendant will supplement and will disclose lay and expert witnesses pursuant to the Civil Case Schedule Order.

**INTERROGATORY NO. 7:** Please state your full name and any other names you have been known by during the last ten years, your present address, date of birth, and place of birth. In addition to your present address, please state all other addresses at which you have resided for the past ten years and the dates you resided at each address.

**OBJECTION:** Not reasonably calculated to lead to the discovery of admissible evidence; imposed for purposes to annoy the Defendant; imposed to create an undue burden and expense on the Defendant.

**ANSWER:**

**PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONES AND OBJECTIONS  
THERETO: 11**

LAW OFFICES OF  
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Fax: (509) 747-2323

1                   **INTERROGATORY NO. 8:** Please state your educational background, beginning with  
2 high school. Please state the name of each educational institution attended, any degrees, honors,  
3 or certifications received, and dates of attendance.

4                   **OBJECTION:** Not reasonably calculated to lead to the discovery of admissible  
5 evidence.

6                   **ANSWER:**

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10                   **INTERROGATORY NO. 9:** Please state your employment history and identify each  
11 job you have held since high school. For each job that you identify, please identify the dates of  
12 your employment and the name/address of each employer.

13                   **OBJECTION:** Not reasonably calculated to lead to the discovery of admissible  
14 evidence.

15                   **ANSWER:**

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PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 12

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Fax: (509) 747-2323

1                   **INTERROGATORY NO. 10:** Have you ever been convicted of or pled guilty to a  
2 crime? If so, state for each:

3                   (a) the name of the crime charged and the crime convicted of;  
4                   (b) the date of the charge and conviction;  
5                   (c) the date and place of the conviction and sentence imposed; and  
6                   (d) the court and case number.

7                   **OBJECTION:** Not reasonably calculated to lead to the discovery of admissible  
8 evidence; imposed to embarrass the defendant; imposed to create an undue burden  
9 and expense on the Defendant; information available from other sources-public  
10 records.

11                   **ANSWER:**

12                   **FIRST SUPPLEMENTAL ANSWER:** *Reckless driving. See copy of Spokane County*  
13 *District Court Docket, case No. 9Z0287431 SV attached Production No. 2 Bates Nos.*  
14 *02\_0001 to 0005.*

15                   **RFP NO. 2:** Please produce all documents concerning your answer to the previous  
16 interrogatory.

17                   **OBJECTION:** Not reasonably calculated to lead to the discovery of admissible  
18 evidence; impose to embarrass the defendant; imposed to create an undue burden  
19 and expense on the Defendant; information available from other sources-public  
records.

20                   **RESPONSE:**

21                   **FIRST SUPPLEMENTAL RESPONSE:** *See copy of Spokane County District Court*  
22 *Docket, case No. 9Z0287431 SV attached Production No. 2 (Bates Nos. 02\_0001 to*  
0005).

23  
24  
25  
PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 13

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1                   **INTERROGATORY NO. 11:** Have you ever given sworn testimony, such as but not  
2 limited to, deposition testimony, testimony in court, testimony before an administrative law  
3 judge, written declaration testimony, witness testimony, etc.? If so, identify the date of such  
4 testimony, the caption name of the matter, the cause number, and the jurisdiction.

5                   **OBJECTION:** **Imposed to create an undue burden and expense on the Defendant.**

6                   **ANSWER:** **Defendant will supplement after the Court rules on Defendant's CR**  
7 **12(b)(6) Motion to Dismiss filed April 3, 2025.**

8                   **FIRST SUPPLEMENTAL ANSWER:** *Defendant testified at hearing to terminate his*  
9 *probation for reckless driving; November 2021. See Production No. 2 (Bates Nos.*  
10 *02\_0001 to 0005).*

11  
12                   **RFP NO. 3:** Please produce all documents concerning your answer to the previous  
13 interrogatory.

14                   **OBJECTION:** **Imposed to create an undue burden and expense on the Defendant.**

15                   **RESPONSE:** **Defendant will supplement after the Court rules on Defendant's CR**  
16 **12(b)(6) Motion to Dismiss filed April 3, 2025.**

17                   **FIRST SUPPLEMENTAL RESPONSE:** *See Production No. 2(Bates Nos. 02\_0001 to*  
18 *0005).*

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PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 14

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**INTERROGATORY NO. 12:** Please identify all your non-privileged communications concerning the subject matter of this lawsuit, and provide for each communication: the date, time, and year; method of communication; and brief description of the communication.

**OBJECTION:** Imposed to create an undue burden and expense on the Defendant.

*Defendant Merkel's private communications with his political groups regarding his political activities and political dissident beliefs, and the identities of the members of his political groups, are privileged and protected his right to privacy in freedom of group and political association and freedom of speech under the First Amendment to the U.S. Constitution.*

**ANSWER:** Defendant will supplement after the Court rules on Defendant's CR 12(b)(6) Motion to Dismiss filed April 3, 2025.

**RFP NO. 4:** Please produce all documents concerning your answer to the previous interrogatory.

**OBJECTION: Imposed to create an undue burden and expense on the Defendant.**

*Defendant Merkel's private communications with his political groups regarding his political activities and political dissident beliefs, and the identities of the members of his political groups, are privileged and protected his right to privacy in freedom of group and political association and freedom of speech under the First Amendment to the U.S. Constitution.*

**RESPONSE:** Defendant will supplement after the Court rules on Defendant's CR 12(b)(6) Motion to Dismiss filed April 3, 2025.

**PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 15**

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1                   **RFP NO. 5:** Please produce all documents concerning the above-captioned litigation that  
2 you have received through:

3                   (a) public records requests;  
4                   (b) freedom of information act requests; and  
5                   (c) subpoenas.

6                   **OBJECTION:** Imposed to create an undue burden and expense on the Defendant;  
7 seeks documents protected by work product privilege; imposed to create an undue  
8 burden and expense on the Defendant; information available from other sources-  
public records. Imposed to create an undue burden and expense on the Defendant.

9                   **RESPONSE:**

10                   **FIRST SUPPLEMENTAL RESPONSE:** Defendant Merkel and his counsel have not  
11                   issued and served any subpoenas in this case.

13                   **INTERROGATORY NO. 13:** Please identify each social media account that you have  
14 used and/or maintained on the Nextdoor website and/or application from January 2024 to the  
15 present. For each account identified, please include:

16                   (a) the name and address of the service provider;  
17                   (b) the name and address of the account holder;  
18                   (c) your username or avatar; and  
19                   (d) the URL where the account was/is available.

22                   **OBJECTION:** Imposed to create an undue burden and expense on the Defendant.

23                   **ANSWER:** Defendant will supplement after the Court rules on Defendant's CR  
24 12(b)(6) Motion to Dismiss filed April 3, 2025.

25                   PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 16

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Fax: (509) 747-2323

1                   **FIRST SUPPLEMENTAL ANSWER:**

- 2                   • **Next Door:** *username*
- 3                   • **Facebook Personal:**  
4                    <https://www.facebook.com/share/1CL9Q1p2st/>
- 5                   • **Facebook Campaign:**  
6                    <https://www.facebook.com/share/19787rYw18/>
- 7                   • **X:**  
8                    <https://x.com/AlforVal?t=dpPDKzleEj6lrFy6AyhkPQ&s=09>
- 9                   • **Instagram:**  
10                  <https://www.instagram.com/albertmerkel?igsh=OXpoMWsxeNvnczlt>
- 11                  • **Tiktok:**  
12                  @spokanevalleyspeak
- 13                  • **LinkedIn:**  
14                  [https://www.linkedin.com/in/albert-merkel-3a255154?utm\\_source=share&utm\\_campaign=share\\_via&utm\\_content=profile&utm\\_medium=android\\_app](https://www.linkedin.com/in/albert-merkel-3a255154?utm_source=share&utm_campaign=share_via&utm_content=profile&utm_medium=android_app)
- 15                  • **YouTube:**  
16                  <https://youtube.com/@albertmerkel900?si=ey9x2cGsERdI6wj>

17                  **RFP NO. 6:** For each Nextdoor account identified in Interrogatory No. 13, please produce  
18                  complete copies of all your posts on your accounts, including all of your posts on any 3<sup>rd</sup> party  
19                  accounts, concerning the Mayor, City Manager, other Councilmembers, and/or the City Attorney  
20                  for the City of Spokane Valley from January 2024 to the present.

21                  **OBJECTION:** Overly broad seeks information and data not reasonably calculated  
22                  to lead to the discovery of admissible evidence, vague, and ambiguous  
23                  “concerning”; seeks private communications protected Defendant’s right to  
24                  privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S.  
25                  Constitution, and invasion of private affairs protected by Washington State  
                        Constitution Article 1, Section 7. Imposed to create an undue burden and expense  
                        on the Defendant.

22                  Defendant Merkel’s private communications with his political groups regarding his  
23                  political activities and political dissident beliefs, and the identities of the members of  
24                  his political groups, are privileged and protected his right to privacy in freedom of  
25                  group and political association and freedom of speech under the First Amendment to  
                        the U.S. Constitution.

PLAINTIFF’S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 17

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1  
2     **RESPONSE:**

3     **FIRST SUPPLEMENTAL RESPONSE:** *Without waving his objections, see below log*  
4     *in credentials for Defendant Merkel's Next Door account:*

5         • *Username: amerkel2008@gmail.com*  
6         • *password: 123456aB!*

7     *Defendant Merkel provide Plaintiff's counsel and/or the City Attorney with the log in*  
8     *credentials, two-factor authentication data, and will cooperate in providing any other*  
9     *information necessary for Plaintiff City to access and download all data on his Next*  
10     *Door social media account.*

11     **RFP NO. 7:** For each Nextdoor account identified in Interrogatory No. 13, please produce  
12     complete copies of all of your posts on your accounts, including your posts on any 3<sup>rd</sup> party  
13     accounts, concerning the City of Spokane Valley's actions, initiatives, proposals, resolutions,  
14     spending, and/or councilmember meetings from January 2024 to the present.

15     **OBJECTION:** Overly broad seeks information and data not reasonably calculated  
16     to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";  
17     seeks private communications protected Defendant's right to privacy by RCW  
18     42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and  
19     invasion of private affairs protected by Washington State Constitution Article 1,  
20     Section 7. Imposed to create an undue burden and expense on the Defendant.

21     *Defendant Merkel's private communications with his political groups regarding his*  
22     *political activities and political dissident beliefs, and the identities of the members of*  
23     *his political groups, are privileged and protected his right to privacy in freedom of*  
24     *group and political association and freedom of speech under the First Amendment to*  
25     *the U.S. Constitution.*

26     **RESPONSE:**

27     **FIRST SUPPLEMENTAL RESPONSE:** *Without waiving his objections, Defendant*  
28     *Merkel will provide Plaintiff with the log in credentials, two-factor authentication data,*  
29     *and will cooperate in providing any other information necessary for Plaintiff City to*  
30     *access and download all data on his Next Door social media account.*

1                   **RFP NO. 8:** For each Nextdoor account identified in Interrogatory No. 13, please produce  
2 complete copies of your posts, including all of your posts on any 3<sup>rd</sup> party accounts, concerning  
3 or containing citizen polls and/or surveys conducted by you from January 2024 to the present.  
4

5                   **OBJECTION:** Overly broad seeks information and data not reasonably calculated  
6 to lead to the discovery of admissible evidence, vague, and ambiguous “concerning”;  
7 seeks private communications protected Defendant’s right to privacy by RCW  
8 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and  
9 invasion of private affairs protected by Washington State Constitution Article 1,  
10 Section 7. Imposed to create an undue burden and expense on the Defendant.  
11

12                   *Defendant Merkel’s private communications with his political groups regarding his  
13 political activities and political dissident beliefs, and the identities of the members of  
14 his political groups, are privileged and protected his right to privacy in freedom of  
15 group and political association and freedom of speech under the First Amendment to  
16 the U.S. Constitution.*

17                   **RESPONSE:**

18                   **FIRST SUPPLEMENTAL RESPONSE:** Without waiving his objections, Defendant  
19 Merkel will provide Plaintiff with the log in credentials, two-factor authentication  
20 data, and any other information necessary for Plaintiff to access and download all  
21 data on his Next Door social media account.

22                   **INTERROGATORY NO. 14:** Please identify each social media account that you have  
23 used and/or maintained on the Facebook website and/or application from January 2024 to the  
24 present. For each account identified, please include:  
25

- (a) the name and address of the service provider;
- (b) the name and address of the account holder;
- (c) your username or avatar; and
- (d) the URL where the account was/is available.

1                   **OBJECTION:** Imposed to create an undue burden and expense on the Defendant.

2                   **ANSWER:** Defendant will supplement after the Court rules on Defendant's CR  
3                   12(b)(6) Motion to Dismiss filed April 3, 2025.

4                   **FIRST SUPPLEMENTAL ANSWER:** See First Supplemental Answer No. 13.

5  
6                   **RFP NO. 9:** For each Facebook account identified in Interrogatory No. 14, please  
7                   produce complete copies of all of your posts, including all of your posts on any 3<sup>rd</sup> party accounts,  
8                   concerning the Mayor, City Manager, other Councilmembers, and/or the City Attorney for the  
9                   City of Spokane Valley from January 2024 to the present.

10                  **OBJECTION:** Overly broad seeks information and data not reasonably calculated  
11                  to lead to the discovery of admissible evidence, vague, and ambiguous  
12                  “concerning”; seeks private communications protected Defendant's right to  
13                  privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S.  
14                  Constitution, and invasion of private affairs protected by Washington State  
15                  Constitution Article 1, Section 7. Imposed to create an undue burden and expense  
16                  on the Defendant.

17  
18                  *Defendant Merkel's private communications with his political groups regarding his  
19                  political activities and political dissident beliefs, and the identities of the members of  
20                  his political groups, are privileged and protected his right to privacy in freedom of  
21                  group and political association and freedom of speech under the First Amendment to  
22                  the U.S. Constitution.*

23  
24                  **RESPONSE:**

25  
26                  **FIRST SUPPLEMENTAL RESPONSE:** Defendant Merkel's public postings on  
27                  Facebook are available to Plaintiff City and any user of the platform.

PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 20

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1                   **RFP NO. 10:** For each Facebook account identified in Interrogatory No. 14, please  
2 produce complete copies of all of your posts, including all of your posts on any 3<sup>rd</sup> party accounts,  
3 concerning the City of Spokane Valley's actions, initiatives, proposals, resolutions, spending,  
4 and/or councilmember meetings from January 2024 to the present.

5                   **OBJECTION:** Overly broad seeks information and data not reasonably calculated  
6 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";  
7 seeks private communications protected Defendant's right to privacy by RCW  
8 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and  
9 invasion of private affairs protected by Washington State Constitution Article 1,  
Section 7. Imposed to create an undue burden and expense on the Defendant.

10                  *Defendant Merkel's private communications with his political groups regarding his  
11 political activities and political dissident beliefs, and the identities of the members of  
12 his political groups, are privileged and protected his right to privacy in freedom of  
group and political association and freedom of speech under the First Amendment to  
the U.S. Constitution.*

13                  **RESPONSE:**

14                  **FIRST SUPPLEMENTAL RESPONSE:** *Defendant Merkel's public postings on  
15 Facebook are available to Plaintiff City and any user of the platform.*

16                  **RFP NO. 11:** For each Facebook account identified in Interrogatory No. 14, please  
17 produce complete copies of all of your posts, including all of your posts on any 3<sup>rd</sup> party accounts,  
18 concerning or containing citizen polls and/or surveys conducted by you from January 2024 to the  
19 present.

20                  **OBJECTION:** Overly broad seeks information and data not reasonably calculated  
21 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";  
22 seeks private communications protected Defendant's right to privacy by RCW  
23 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and  
24 invasion of private affairs protected by Washington State Constitution Article 1,  
Section 7. Imposed to create an undue burden and expense on the Defendant.

1                   Defendant Merkel's private communications with his political groups regarding his  
2 political activities and political dissident beliefs, and the identities of the members of  
3 his political groups, are privileged and protected his right to privacy in freedom of  
group and political association and freedom of speech under the First Amendment to  
the U.S. Constitution.

4                   **RESPONSE:**

5                   **FIRST SUPPLEMENTAL RESPONSE:** Defendant Merkel's public postings on  
6 Facebook are available to Plaintiff City and any user of the platform.

7                   **INTERROGATORY NO. 15:** Please identify each social media account that you have  
8 used and/or maintained on the X (formerly, Twitter) website and/or application from January  
9 2024 to the present. For each account identified, please include:

10                   (a) the name and address of the service provider;  
11                   (b) the name and address of the account holder;  
12                   (c) your username or avatar; and  
13                   (d) the URL where the account was/is available.

14                   **OBJECTION:** Imposed to create an undue burden and expense on the Defendant.

15                   **ANSWER:** Defendant will supplement after the Court rules on Defendant's CR  
16 12(b)(6) Motion to Dismiss filed April 3, 2025.

17                   **FIRST SUPPLEMENTAL ANSWER:** See First Supplemental Answer No. 13.

18                   **RFP NO. 12:** For each X (formerly, Twitter) account identified in Interrogatory No. 15,  
19 please produce complete copies of all of your posts, including all of your posts on any 3<sup>rd</sup> party  
20 accounts, concerning the Mayor, City Manager, other Councilmembers, and/or other the City  
21 Attorney for the City of Spokane Valley from January 2024 to the present.

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PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 22

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**OBJECTION:** Overly broad seeks information and data not reasonably calculated to lead to the discovery of admissible evidence, vague, and ambiguous “concerning”; seeks private communications protected Defendant’s right to privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and invasion of private affairs protected by Washington State Constitution Article 1, Section 7. Imposed to create an undue burden and expense on the Defendant.

*Defendant Merkel's private communications with his political groups regarding his political activities and political dissident beliefs, and the identities of the members of his political groups, are privileged and protected his right to privacy in freedom of group and political association and freedom of speech under the First Amendment to the U.S. Constitution.*

**RESPONSE:**

**FIRST SUPPLEMENTAL RESPONSE:** Defendant Merkel's public postings on X are available to Plaintiff City and any user of the platform.

**RFP NO. 13:** For each X (formerly, Twitter) account identified in Interrogatory No. 15,

please produce complete copies of all of your posts, including your posts on any 3<sup>rd</sup> party accounts, concerning the City of Spokane Valley's actions, initiatives, proposals, resolutions, spending and/or councilmember meetings from January 2024 to the present.

**OBJECTION:** Overly broad seeks information and data not reasonably calculated to lead to the discovery of admissible evidence, vague, and ambiguous “concerning”; seeks private communications protected Defendant’s right to privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and invasion of private affairs protected by Washington State Constitution Article 1, Section 7. Imposed to create an undue burden and expense on the Defendant.

*Defendant Merkel's private communications with his political groups regarding his political activities and political dissident beliefs, and the identities of the members of his political groups, are privileged and protected his right to privacy in freedom of group and political association and freedom of speech under the First Amendment to the U.S. Constitution.*

**PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 23**

LAW OFFICES OF  
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7117 W Sprague Ave., Suite 1600  
Spokane, WA 99201  
Telephone: (509) 455-9555  
Fax: (509) 747-2323

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3 **RESPONSE:**

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6 **FIRST SUPPLEMENTAL RESPONSE:** *Defendant Merkel's public postings on X*  
*are available to Plaintiff City and any user of the platform.*

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9 **RFP NO. 14:** For each X (formerly, Twitter) account identified in Interrogatory No. 15,  
10 please produce complete copies of all of your posts, including your posts on any 3<sup>rd</sup> party  
11 accounts, concerning or containing citizen polls and/or surveys conducted by you from January  
12 2024 to the present.

13

14 **OBJECTION:** Overly broad seeks information and data not reasonably calculated  
15 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";  
16 seeks private communications protected Defendant's right to privacy by RCW  
17 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and  
18 invasion of private affairs protected by Washington State Constitution Article 1,  
19 Section 7. Imposed to create an undue burden and expense on the Defendant.

20 *Defendant Merkel's private communications with his political groups regarding his  
21 political activities and political dissident beliefs, and the identities of the members of  
22 his political groups, are privileged and protected his right to privacy in freedom of  
23 group and political association and freedom of speech under the First Amendment to  
24 the U.S. Constitution.*

25

1 **RESPONSE:**

2 **FIRST SUPPLEMENTAL RESPONSE:** *Defendant Merkel's public postings on X*  
*are available to Plaintiff City and any user of the platform.*

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PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 24

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1                   **INTERROGATORY NO. 16:** Please identify each social media account that you have  
2 used and/or maintained on the TikTok website and/or application from January 2024 to the  
3 present. For each account identified, please include:

4                   (a) the name and address of the service provider;  
5                   (b) the name and address of the account holder;  
6                   (c) your username or avatar; and  
7                   (d) the URL where the account was/is available.

8                   **OBJECTION: Imposed to create an undue burden and expense on the Defendant.**

9                   **ANSWER: Defendant will supplement after the Court rules on Defendant's CR**  
10                   **12(b)(6) Motion to Dismiss filed April 3, 2025.**

11                   **SUPPLEMENTAL ANSWER: See Supplemental Answer No. 13.**

12                   **RFP NO. 15:** For each TikTok account identified in Interrogatory No. 16, please produce  
13 complete copies of all of your posts, including all of your posts on any 3<sup>rd</sup> party accounts,  
14 concerning the Mayor, City Manager, other Councilmembers, and/or the City Attorney for the  
15 City of Spokane Valley from January 2024 to the present.

16                   **OBJECTION: Overly broad seeks information and data not reasonably calculated**  
17                   **to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";**  
18                   **seeks private communications protected Defendant's right to privacy by RCW**  
19                   **42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and**  
20                   **invasion of private affairs protected by Washington State Constitution Article 1,**  
21                   **Section 7. Imposed to create an undue burden and expense on the Defendant.**

22                   ***Defendant Merkel's private communications with his political groups regarding his***  
23                   ***political activities and political dissident beliefs, and the identities of the members of***  
24                   ***his political groups, are privileged and protected his right to privacy in freedom of***  
25                   ***group and political association and freedom of speech under the First Amendment to***  
                         ***the U.S. Constitution.***

PLAINTIFF'S FIRST SET OF INTERROGATORIES  
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ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 25

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1  
2     **RESPONSE:**

3     **FIRST SUPPLEMENTAL RESPONSE:** *Defendant Merkel's public postings on*  
4     *TikTok are available to Plaintiff City and any user of the platform.*

5     **RFP NO. 16:** For each TikTok account identified in Interrogatory No. 16, please produce  
6     complete copies of all of your posts, including your posts on any 3<sup>rd</sup> party accounts, concerning  
7     the City of Spokane Valley's actions, initiatives, proposals, resolutions, spending and/or  
8     councilmember meetings from January 2024 to the present.

9  
10     **OBJECTION:** Overly broad seeks information and data not reasonably calculated  
11     to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";  
12     seeks private communications protected Defendant's right to privacy by RCW  
13     42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and  
14     invasion of private affairs protected by Washington State Constitution Article 1,  
15     Section 7. Imposed to create an undue burden and expense on the Defendant.

16     *Defendant Merkel's private communications with his political groups regarding his  
17     political activities and political dissident beliefs, and the identities of the members of  
18     his political groups, are privileged and protected his right to privacy in freedom of  
19     group and political association and freedom of speech under the First Amendment to  
20     the U.S. Constitution.*

21     **RESPONSE:**

22     **FIRST SUPPLEMENTAL RESPONSE:** *Defendant Merkel's public postings on*  
23     *TikTok are available to Plaintiff City and any user of the platform.*

1                   **RFP NO. 17:** For each TikTok account identified in Interrogatory No. 16, please produce  
2 complete copies of all of your posts, including all of your posts on any 3<sup>rd</sup> party accounts,  
3 concerning or containing citizen polls and/or surveys conducted by you from January 2024 to the  
4 present.

5                   **OBJECTION:** Overly broad seeks information and data not reasonably calculated  
6 to lead to the discovery of admissible evidence, vague, and ambiguous “concerning”;  
7 seeks private communications protected Defendant’s right to privacy by RCW  
8 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and  
9 invasion of private affairs protected by Washington State Constitution Article 1,  
Section 7. Imposed to create an undue burden and expense on the Defendant.

10                  *Defendant Merkel’s private communications with his political groups regarding his  
11 political activities and political dissident beliefs, and the identities of the members of  
12 his political groups, are privileged and protected his right to privacy in freedom of  
group and political association and freedom of speech under the First Amendment to  
the U.S. Constitution.*

13                  **RESPONSE:**

14                  **FIRST SUPPLEMENTAL RESPONSE:** *Defendant Merkel’s public postings on  
15 TikTok are available to Plaintiff City and any user of the platform.*

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PLAINTIFF’S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 27

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1                   **INTERROGATORY NO. 17:** Please identify all other internet-based social networking  
2 website that you have used and/or maintained an account from January 2024 to the present (e.g.  
3 Ask.fm, Blogspot, BuzzFeed, CafeMom, Class mates, DeviantArt, Flickr, Foursquare, Google  
4 +, Habbo, Instagram, LinkedIn, LiveJournal, Meet Me, Meetup, MyLife, MySpace,  
5 MyYearbook, Periscope, Pinterest, Quora, Reddit, Reunion, Snapchat, Tagged, Tumblr, Vine,  
6 VK, Windows Live Spaces, YouTube, etc.). For each such website and/or application identified,  
7 please include:

8                   (a) the name and address of the service provider;  
9                   (b) the name and address of the account holder;  
10                   (c) your username or avatar; and  
11                   (d) the URL where the account was/is available.

12                   **OBJECTION: Imposed to create an undue burden and expense on the Defendant.**

13                   **ANSWER: Defendant will supplement after the Court rules on Defendant's CR**  
14                   **12(b)(6) Motion to Dismiss filed April 3, 2025.**

15                   **FIRST SUPPLEMENTAL ANSWER: See Supplemental Answer No. 13.**

16                   **RFP NO. 18:** For each internet-based social media account identified in Interrogatory  
17 No. 17, please produce complete copies of all of your posts, including all of your posts on any  
18 3<sup>rd</sup> party accounts, concerning the Mayor, City Manager, other Councilmembers, and/or the City  
19 Attorney for the City of Spokane Valley from January 2024 to the present.

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PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 28

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**OBJECTION:** Overly broad seeks information and data not reasonably calculated to lead to the discovery of admissible evidence, vague, and ambiguous “concerning”; seeks private communications protected Defendant’s right to privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and invasion of private affairs protected by Washington State Constitution Article 1, Section 7. Imposed to create an undue burden and expense on the Defendant.

*Defendant Merkel's private communications with his political groups regarding his political activities and political dissident beliefs, and the identities of the members of his political groups, are privileged and protected his right to privacy in freedom of group and political association and freedom of speech under the First Amendment to the U.S. Constitution.*

### **RESPONSE:**

**FIRST SUPPLEMENTAL RESPONSE:** Defendant Merkel's public postings on Instagram, LinkedIn, and YouTube are available to Plaintiff City and any user of the platform.

**RFP NO. 19:** For each internet-based social media account identified in Interrogatory No. 17, please produce complete copies of all of your posts, including all of your posts on any 3<sup>rd</sup> party accounts, concerning the City of Spokane Valley's actions, initiatives, proposals, resolutions, spending and/or councilmember meetings from January 2024 to the present.

**OBJECTION:** Overly broad seeks information and data not reasonably calculated to lead to the discovery of admissible evidence, vague, and ambiguous “concerning”; seeks private communications protected Defendant’s right to privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and invasion of private affairs protected by Washington State Constitution Article 1, Section 7. Imposed to create an undue burden and expense on the Defendant.

*Defendant Merkel's private communications with his political groups regarding his political activities and political dissident beliefs, and the identities of the members of his political groups, are privileged and protected his right to privacy in freedom of group and political association and freedom of speech under the First Amendment to the U.S. Constitution.*

**PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 29**

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### **RESPONSE:**

**FIRST SUPPLEMENTAL RESPONSE:** Defendant Merkel's public postings on Instagram, LinkedIn, and YouTube are available to Plaintiff City and any user of the platform.

**RFP NO. 20:** For each internet-based social media account identified in Interrogatory No. 17, please produce complete copies of all of your posts, including all of your posts on any 3<sup>rd</sup> party accounts, concerning or containing citizen polls and/or surveys conducted by you from January 2024 to the present.

**OBJECTION:** Overly broad seeks information and data not reasonably calculated to lead to the discovery of admissible evidence, vague, and ambiguous “concerning”; seeks private communications protected Defendant’s right to privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and invasion of private affairs protected by Washington State Constitution Article 1, Section 7. Imposed to create an undue burden and expense on the Defendant.

*Defendant Merkel's private communications with his political groups regarding his political activities and political dissident beliefs, and the identities of the members of his political groups, are privileged and protected his right to privacy in freedom of group and political association and freedom of speech under the First Amendment to the U.S. Constitution.*

## **RESPONSE:**

**FIRST SUPPLEMENTAL RESPONSE:** Defendant Merkel's public postings on Instagram, LinkedIn, and YouTube are available to Plaintiff City and any user of the platform.

**PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONES AND OBJECTIONS  
THERETO: 30**

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Fax: (509) 747-2323

1                   **INTERROGATORY NO. 18:** Please identify each and every email address that you  
2 have used and/or maintained from January 2024 to the present.

3                   **OBJECTION:** Imposed to create an undue burden and expense on the Defendant.

4                   **ANSWER:** Defendant will supplement after the Court rules on Defendant's CR  
5 12(b)(6) Motion to Dismiss filed April 3, 2025.

6                   **RFP NO. 21:** For each email address identified in Interrogatory No. 18, please produce  
7 complete copies of all non-privileged email communications concerning the Mayor, City  
8 Manager, other Councilmembers, and/or other the City Attorney for the City of Spokane Valley  
9 from January 2024 to the present.

10                   **OBJECTION:** Overly broad seeks information and data not reasonably calculated  
11 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";  
12 seeks private communications protected Defendant's right to privacy by RCW  
13 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and  
14 invasion of private affairs protected by Washington State Constitution Article 1,  
Section 7. Imposed to create an undue burden and expense on the Defendant.

15                   *Defendant Merkel's private communications with his political groups regarding his  
16 political activities and political dissident beliefs, and the identities of the members of  
17 his political groups, are privileged and protected his right to privacy in freedom of  
18 group and political association and freedom of speech under the First Amendment to  
the U.S. Constitution.*

19                   **RESPONSE:**

20                   **RFP NO. 22:** For each email address identified in Interrogatory No. 18, please produce  
21 complete copies of all non-privileged email communications concerning the City of Spokane  
22 Valley's actions, initiatives, proposals, resolutions, spending and/or councilmember meetings  
23 from January 2024 to the present.

24                   PLAINTIFF'S FIRST SET OF INTERROGATORIES  
25 AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 31

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**OBJECTION:** Overly broad seeks information and data not reasonably calculated to lead to the discovery of admissible evidence, vague, and ambiguous “concerning”; seeks private communications protected Defendant’s right to privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and invasion of private affairs protected by Washington State Constitution Article 1, Section 7. Imposed to create an undue burden and expense on the Defendant.

*Defendant Merkel's private communications with his political groups regarding his political activities and political dissident beliefs, and the identities of the members of his political groups, are privileged and protected his right to privacy in freedom of group and political association and freedom of speech under the First Amendment to the U.S. Constitution.*

### **RESPONSE:**

**INTERROGATORY NO. 19:** Please identify each and every phone number that you

have used and/or maintained from January 2024 to the present.

**OBJECTION:** Overly broad seeks information and data not reasonably calculated to lead to the discovery of admissible evidence; seeks private information protected Defendant's right to privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and invasion of private affairs protected by Washington State Constitution Article 1, Section 7. Imposed to create an undue burden and expense on the Defendant.

*Defendant Merkel's private communications with his political groups regarding his political activities and political dissident beliefs, and the identities of the members of his political groups, are privileged and protected his right to privacy in freedom of group and political association and freedom of speech under the First Amendment to the U.S. Constitution.*

**ANSWER:**

**PLAINTIFF'S FIRST SET OF INTERROGATORIES  
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DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 32**

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Fax: (509) 747-2323

1                   **RFP NO. 23:** For each phone number identified in Interrogatory No. 19, please produce  
2 complete copies of all non-privileged phone and/or text message communications concerning the  
3 Mayor, City Manager, other Councilmembers, and/or other the City Attorney for the City of  
4 Spokane Valley from January 2024 to the present.

5                   **OBJECTION:** Overly broad seeks information and data not reasonably calculated  
6 to lead to the discovery of admissible evidence, vague, and ambiguous “concerning”;  
7 seeks private communications protected Defendant’s right to privacy by RCW  
8 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and  
9 invasion of private affairs protected by Washington State Constitution Article 1,  
Section 7. Imposed to create an undue burden and expense on the Defendant.

10                  *Defendant Merkel’s private communications with his political groups regarding his  
11 political activities and political dissident beliefs, and the identities of the members of  
12 his political groups, are privileged and protected his right to privacy in freedom of  
13 group and political association and freedom of speech under the First Amendment to  
14 the U.S. Constitution.*

15                  **RESPONSE:**

16                  **RFP NO. 24:** For each phone number identified in Interrogatory No. 19, please produce  
17 complete copies of all non-privileged phone and/or text message communications concerning the  
18 City of Spokane Valley’s actions, initiatives, proposals, resolutions, spending and/or  
19 councilmember meetings from January 2024 to the present.

20                  **OBJECTION:** Overly broad seeks information and data not reasonably calculated  
21 to lead to the discovery of admissible evidence, vague, and ambiguous “concerning”;  
22 seeks private communications protected Defendant’s right to privacy by RCW  
23 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and  
24 invasion of private affairs protected by Washington State Constitution Article 1,  
Section 7.. Imposed to create an undue burden and expense on the Defendant.

1           *Defendant Merkel's private communications with his political groups regarding his  
2 political activities and political dissident beliefs, and the identities of the members of  
3 his political groups, are privileged and protected his right to privacy in freedom of  
group and political association and freedom of speech under the First Amendment to  
the U.S. Constitution.*

4           **RESPONSE:**

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7           **RFP NO. 25:** Please produce copies of all communications between you and Jodie  
8 Buehler (including any social media posts, social media comments, direct messages, text  
9 messages, emails, etc.) concerning the Mayor, City Manager, other Councilmembers, and/or  
10 other the City Attorney for the City of Spokane Valley from January 2024 to the present.

11           **OBJECTION:** Overly broad seeks information and data not reasonably calculated  
12 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";  
13 seeks private communications protected Defendant's right to privacy by RCW  
14 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and  
invasion of private affairs protected by Washington State Constitution Article 1,  
Section 7. Imposed to create an undue burden and expense on the Defendant.

15           *Defendant Merkel's private communications with his political groups regarding his  
16 political activities and political dissident beliefs, and the identities of the members of  
17 his political groups, are privileged and protected his right to privacy in freedom of  
group and political association and freedom of speech under the First Amendment to  
the U.S. Constitution.*

19           **ANSWER:**

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PLAINTIFF'S FIRST SET OF INTERROGATORIES  
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ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 34

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1                   **RFP NO. 26:** Please produce copies of all communications between you and Jodie  
2 Buehler (including any social media posts, social media comments, direct messages, text  
3 messages, emails, etc.) concerning the City of Spokane Valley's actions, initiatives, proposals,  
4 resolutions, spending and/or councilmember meetings from January 2024 to the present.

5                   **OBJECTION:** Overly broad seeks information and data not reasonably calculated  
6 to lead to the discovery of admissible evidence, vague, and ambiguous "concerning";  
7 seeks private communications protected Defendant's right to privacy by RCW  
8 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and  
9 invasion of private affairs protected by Washington State Constitution Article 1,  
Section 7. Imposed to create an undue burden and expense on the Defendant.

10                  *Defendant Merkel's private communications with his political groups regarding his  
11 political activities and political dissident beliefs, and the identities of the members of  
12 his political groups, are privileged and protected his right to privacy in freedom of  
group and political association and freedom of speech under the First Amendment to  
the U.S. Constitution.*

13                  **ANSWER:**

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15                  **INTERROGATORY NO. 20:** Please identify any notes and/or memoranda made by  
16 you concerning the Mayor, City Manager, other Councilmembers, and/or other the City Attorney  
17 for the City of Spokane Valley from January 2024 to the present.

18                  **OBJECTION:** Imposed for purposes to annoy Defendant and to imposed undue  
19 burden and expense. Not reasonably calculated to lead to the discovery of  
20 admissible evidence. Overly broad, vague, and ambiguous "concerning." Seeks  
21 information protected by the work product privilege. Imposed to create an undue  
22 burden and expense on the Defendant.

23                  *Seeks private communications protected Defendant's right to privacy by RCW  
24 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and  
invasion of private affairs protected by Washington State Constitution Article 1,  
Section 7.*

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PLAINTIFF'S FIRST SET OF INTERROGATORIES  
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ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 35

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1           *Defendant Merkel's private communications with his political groups regarding his  
2 political activities and political dissident beliefs, and the identities of the members of  
3 his political groups, are privileged and protected his right to privacy in freedom of  
group and political association and freedom of speech under the First Amendment to  
the U.S. Constitution.*

4           **ANSWER:**

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6           **RFP NO. 27:** Please produce all documents concerning your answer to the previous  
7 interrogatory.

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9           **OBJECTION:** Imposed for purposes to annoy and embarrass Defendant and to  
10 imposed undue burden and expense. Not reasonably calculated to lead to the  
discovery of admissible evidence. Seeks private communications protected  
11 Defendant's right to privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup>  
12 Amendments to U.S. Constitution, and invasion of private affairs protected by  
Washington State Constitution Article 1, Section 7. Seeks documents protected by  
13 the work product privilege. Imposed to create an undue burden and expense on the  
Defendant.

14           *Defendant Merkel's private communications with his political groups regarding his  
15 political activities and political dissident beliefs, and the identities of the members of  
16 his political groups, are privileged and protected his right to privacy in freedom of  
group and political association and freedom of speech under the First Amendment to  
the U.S. Constitution.*

17           **RESPONSE:**

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20           **INTERROGATORY NO. 21:** Please identify any notes and/or memoranda made by  
21 you concerning the City of Spokane Valley's actions, initiatives, proposals, resolutions, spending  
22 and/or councilmember meetings from January 2024 to the present.

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PLAINTIFF'S FIRST SET OF INTERROGATORIES  
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ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 36

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Telephone: (509) 455-9555  
Fax: (509) 747-2323

**OBJECTION:** Imposed for purposes to annoy Defendant and to imposed undue burden and expense. Overly broad and not reasonably calculated to lead to the discovery of admissible evidence. Vague, and ambiguous "concerning." Seeks private communications and information protected Defendant's right to privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and invasion of private affairs protected by Washington State Constitution Article 1, Section 7. Seeks documents protected by the work product privilege. Imposed to create an undue burden and expense on the Defendant.

*Defendant Merkel's private communications with his political groups regarding his political activities and political dissident beliefs, and the identities of the members of his political groups, are privileged and protected his right to privacy in freedom of group and political association and freedom of speech under the First Amendment to the U.S. Constitution.*

**ANSWER:**

**RFP NO. 28:** Please produce all documents concerning your answer to the previous interrogatory.

**OBJECTION:** Imposed for purposes to annoy Defendant and to imposed undue burden and expense. Overly broad and not reasonably calculated to lead to the discovery of admissible evidence. Vague, and ambiguous "concerning." Seeks private communications and information protected Defendant's right to privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and invasion of private affairs protected by Washington State Constitution Article 1, Section 7. Seeks documents protected by the work product privilege. Imposed to create an undue burden and expense on the Defendant.

*Defendant Merkel's private communications with his political groups regarding his political activities and political dissident beliefs, and the identities of the members of his political groups, are privileged and protected his right to privacy in freedom of group and political association and freedom of speech under the First Amendment to the U.S. Constitution.*

**RESPONSE:**

**PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 37**

LAW OFFICES OF  
**LUKINS & ANNIS, PS**  
A PROFESSIONAL SERVICE CORPORATION  
717 W Sprague Ave., Suite 1600  
Spokane, WA 99201  
Telephone: (509) 455-9555  
Fax: (509) 747-2323

**INTERROGATORY NO. 22:** Please identify all communications between you and the City from January 1, 2024 through the present concerning any public records requests made by citizens concerning your internet-based social media accounts, and provide for each communication: the date, time, and year; method of communication; and brief description of the communication.

**OBJECTION:** Imposed for purposes to annoy Defendant and to imposed undue burden and expense and the information sought is available in Plaintiff own records and databases. Seeks information not reasonably calculated to lead to the discovery of admissible evidence.

**ANSWER:**

**RFP NO. 29:** Please produce all documents concerning your answer to the previous interrogatory.

**OBJECTION:** Imposed for purposes to annoy Defendant and to imposed undue burden and expense and the information sought is available in Plaintiff own records and databases. Seeks information not reasonably calculated to lead to the discovery of admissible evidence.

## **RESPONSE:**

**INTERROGATORY NO. 23:** Please state whether you have deleted any communications (including any social media posts, social media comments, direct messages, text messages, emails, etc.) concerning the Mayor, City Manager, other Councilmembers, and/or other the City Attorney for the City of Spokane Valley from January 2024 to the present.

**PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 38**

LAW OFFICES OF  
**LUKINS & ANNIS, PS**  
A PROFESSIONAL SERVICE CORPORATION  
717 W Sprague Ave., Suite 1600  
Spokane, WA 99201  
Telephone: (509) 455-9555  
Fax: (509) 747-2323

**OBJECTION:** Imposed for purposes to annoy and embarrass Defendant and to impose undue burden and expense. Overly broad and not reasonably calculated to lead to the discovery of admissible evidence. Seeks identification of private communications protected Defendant's right to privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and invasion of private affairs protected by Washington State Constitution Article 1, Section 7. Seeks documents protected by the work product privilege. Vague, and ambiguous "concerning."

*Defendant Merkel's private communications with his political groups regarding his political activities and political dissident beliefs, and the identities of the members of his political groups, are privileged and protected his right to privacy in freedom of group and political association and freedom of speech under the First Amendment to the U.S. Constitution.*

**ANSWER:**

**FIRST SUPPLEMENTAL ANSWER:** *None.*

**INTERROGATORY NO. 24:** Please state whether you have deleted any communications (including any social media posts, social media comments, direct messages, text messages, emails, etc.) concerning the City of Spokane Valley's actions, initiatives, proposals, resolutions, spending and/or councilmember meetings from January 2024 to the present.

**OBJECTION:** Imposed for purposes to annoy and embarrass Defendant and to impose undue burden and expense. Overly broad and not reasonably calculated to lead to the discovery of admissible evidence. Seeks identification of private communications protected Defendant's right to privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and invasion of private affairs protected by Washington State Constitution Article 1, Section 7. Seeks documents protected by the work product privilege. Vague, and ambiguous "concerning."

**PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONES AND OBJECTIONS  
THERETO: 39**

LAW OFFICES OF  
**LUKINS & ANNIS, PS**  
A PROFESSIONAL SERVICE CORPORATION  
717 W Sprague Ave., Suite 1600  
Spokane, WA 99201  
Telephone: (509) 455-9555  
Fax: (509) 747-2323

*Defendant Merkel's private communications with his political groups regarding his political activities and political dissident beliefs, and the identities of the members of his political groups, are privileged and protected his right to privacy in freedom of group and political association and freedom of speech under the First Amendment to the U.S. Constitution.*

**ANSWER:**

**FIRST SUPPLEMENTAL ANSWER:** *None.*

**RFP NO. 30:** If not already produced or provided pursuant to requests for production set forth above, please produce the following:

- (a) All documents referring or relating to any problems, acts, or omissions on the part of Plaintiff or representatives thereof that allegedly resulted in the complained about acts;
- (b) All documents referring or relating to any problems, acts, or omissions on the part of any other Defendant or representatives thereof that allegedly resulted in the complained about acts;
- (c) All documents referring or relating to any communication that the Defendant or any representative thereof had with Plaintiff, or any representative thereof, regarding the complained about acts;
- (d) All documents referring or relating to any communication that the Plaintiff or any representative thereof had with any other possible Defendant, or any representative thereof, regarding the complained about acts;

**PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 40**

LAW OFFICES OF  
**LUKINS & ANNIS, PS**  
A PROFESSIONAL SERVICE CORPORATION  
717 W Sprague Ave., Suite 1600  
Spokane, WA 99201  
Telephone: (509) 455-9555  
Fax: (509) 747-2323

1 (e) All documents to or from any other person, entity, organization, or association  
2 regarding the complained about acts;

3 (f) Any and all documents created, maintained or contributed to by the Plaintiff  
4 and/or Defendant, or any representative thereof, regarding in any way, directly  
5 or indirectly, the events, circumstances, occurrences, or conversations which are  
6 pertinent to any allegation, claim or defense in this action;

7 (g) All documents which support or relate to any allegation, claim or defense in this  
8 action; and

9 (h) All documents Defendant intends to use as exhibits at trial.

10 **OBJECTION:** Imposed for purposes to annoy and embarrass Defendant and to  
11 imposed undue burden and expense. Overly broad, and not reasonably calculated  
12 to lead to the discovery of admissible evidence. Seeks identification of private  
13 communications protected Defendant's right to privacy by RCW 42.46.050 and  
14 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and invasion of  
15 private affairs protected by Washington State Constitution Article 1, Section 7.  
Seeks documents protected by the work product privilege. Vague, and ambiguous  
"concerning."

16 *Defendant Merkel's private communications with his political groups regarding his  
17 political activities and political dissident beliefs, and the identities of the members of  
18 his political groups, are privileged and protected his right to privacy in freedom of  
group and political association and freedom of speech under the First Amendment to  
the U.S. Constitution.*

19 **OBJECTION:** Seeks information protected by the attorney work product privilege and  
20 for Defendant to put on dress rehearsal for trial. *Weber v. Biddle, 72 Wn.2d 22, 29, 431  
21 P.2d 705 (1967).*

22 **RESPONSE:**

23 **FIRST SUPPLEMENTAL RESPONSE:** Defendant will supplement with all  
24 documents Defendant intends to use as exhibits at trial pursuant to the Civil Case  
25 Schedule Order.

PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 41

LAW OFFICES OF  
**LUKINS & ANNIS, PS**  
A PROFESSIONAL SERVICE CORPORATION  
717 W Sprague Ave., Suite 1600  
Spokane, WA 99201  
Telephone: (509) 455-9555  
Fax: (509) 747-2323

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**CERTIFICATION**

THE UNDERSIGNED ATTORNEY for Defendant has read the foregoing Answers and Responses to Plaintiff's First Set of Interrogatories and Requests for Production of Documents, and they are in compliance with CR 26(g).

DATED this 1<sup>st</sup> day of July, 2025.

Print: Patrick J. Kirby

Signature: 

**VERIFICATION**

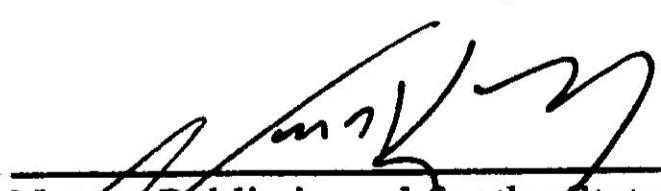
STATE OF WASHINGTON )  
 ) ss.  
County of Spokane )

ALBERT MERKEL, being first duly sworn upon oath, deposes and says that he is the Defendant in the above-entitled action and has read the foregoing answers to Interrogatories, knows the contents thereof, and believes the same to be true and correct to the best of his knowledge.

  
ALBERT MERKEL

SUBSCRIBED AND SWORN to before me this 1<sup>st</sup> day of July, 2025.



  
Notary Public in and for the State of Washington, residing in Spokane  
My commission expires: \_\_\_\_\_

PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT FIRST SUPPL.  
ANSWERS, RESPONSES AND OBJECTIONS  
THERETO: 42

LAW OFFICES OF  
**LUKINS & ANNIS, PS**  
A PROFESSIONAL SERVICE CORPORATION  
717 W Sprague Ave., Suite 1600  
Spokane, WA 99201  
Telephone: (509) 455-9555  
Fax: (509) 747-2323

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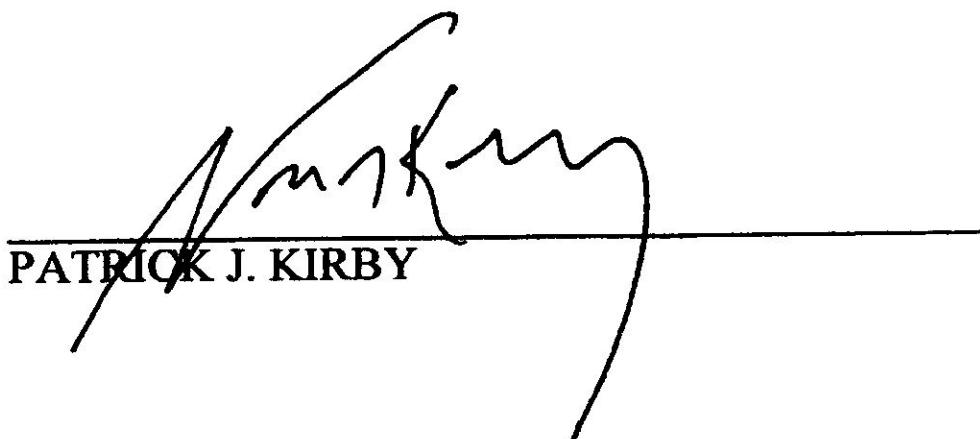
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 9<sup>th</sup> day of June, 2025, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

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  
Spokane, WA 99201

HAND DELIVERY  
 U.S. MAIL  
 OVERNIGHT MAIL  
 FACSIMILE  
 EMAIL

Telephone: (509) 455-9555  
Fax: (509) 747-2323  
Email: [rjohnson@lukins.com](mailto:rjohnson@lukins.com)  
[mhines@lukins.com](mailto:mhines@lukins.com)  
[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)

  
PATRICK J. KIRBY

PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT ANSWERS,  
RESPONSES AND OBJECTIONS THERETO: 36

LAW OFFICES OF  
**LUKINS & ANNIS, PS**  
A PROFESSIONAL SERVICE CORPORATION  
717 W Sprague Ave., Suite 1600  
Spokane, WA 99201  
Telephone: (509) 455-9555  
Fax: (509) 747-2323

## **EXHIBIT “B”**

**Patrick J. Kirby**

---

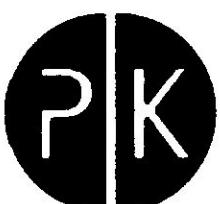
**From:** Patrick J. Kirby  
**Sent:** Wednesday, July 2, 2025 10:55 AM  
**To:** Zaine M. Yzaguirre  
**Cc:** Reid G. Johnson; Michael J. Hines; Kirsten Price  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Zane,

Mr. Merkel will be providing the City with *all the data from his Next Door social media account from January 1, 2024, to present*. There are no private communications on his Next Door account. But he is presently having technical difficulties downloading it. Once he can access the Next Door data, he will forward it to City Attorney Kelly Konkright or you or both whichever you like, or cooperate with the City to allow the City to download the data directly. On January 3, 2025, Mr. Merkel allowed the City to link his Next Door account with the City's Page Freezer software and that was accomplished on January 4, 2025. Please verify whether the City's Page Freezer software has access to and has captured the data for his Next Door public postings before January 4, 2025, and/or after to January 4, 2025.

Mr. Merkel will cooperate in providing the City with access to the data for *all his public postings on all his social media accounts*, however, Mr. Merkel will not provide the City with data for any of his private electronic communications. [See my objections to your discovery requests]. Mr. Merkel will need technical assistance from the City's IT department downloading the data for his public postings *without downloading the data for his private electronic communications* on his social media platforms. However, ***Mr. Merkel is not conceding that any of his public postings or his private communications constitute "public records."***

*Patrick J. Kirby*



PATRICK J. KIRBY  
LAW OFFICE PLLC

P. 509-835-1200  
[WWW.PKIRBYLAW.COM](http://WWW.PKIRBYLAW.COM)  
4353 S. Greystone Lane  
Spokane, WA 99223

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**From:** Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>  
**Sent:** Wednesday, July 2, 2025 10:01 AM  
**To:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>  
**Cc:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>; Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Kirsten Price <[kprice@lukins.com](mailto:kprice@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Good morning Pat,

We are in receipt of Mr. Merkel's first supplemental production and are currently in the process of reviewing those materials.

However, one outstanding issue referenced in Reid's email below is whether Mr. Merkel intends on providing his log in credentials for his newly identified social media accounts (i.e., two Facebook, X, Instagram, TikTok, LinkedIn, and YouTube). Do you and your client intend on providing this information in the same manner as the Nextdoor credentials?

Thank you,

**Zaine M. Yzaguirre**  
**ATTORNEY**  
**O:** (509) 455-9555  
**D:** (509) 363-2362  
**F:** (509) 363-2483  
**E:** [zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)

📍 Lukins & Annis, P.S. 717 W Sprague Ave., Suite 1600 Spokane, WA 99201

**From:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>  
**Sent:** Tuesday, July 1, 2025 3:59 PM  
**To:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>  
**Cc:** Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>; Kirsten Price <[kprice@lukins.com](mailto:kprice@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Counsel attached is Production No. 2 (Bates 02\_0001 thru 05) which I inadvertently did not attach to Defendant's 1<sup>st</sup> Supplemental Answers, Responses & Objections.

*Patrick J. Kirby*



P. 509-835-1200  
[WWW.PKIRBYLAW.COM](http://WWW.PKIRBYLAW.COM)

4353 S. Greystone Lane  
Spokane, WA 99223

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**From:** Patrick J. Kirby  
**Sent:** Tuesday, July 1, 2025 10:51 AM  
**To:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>  
**Cc:** Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>; Kirsten Price <[kprice@lukins.com](mailto:kprice@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Counsel, attached are Defendant Merkel's First Supplemental Answers, Responses, and Objections to the City of SV Rogs/RFPs, which were hand-delivered to your office today.

*Patrick J. Kirby*



P. 509-835-1200  
[WWW.PKIRBYLAW.COM](http://WWW.PKIRBYLAW.COM)  
4353 S. Greystone Lane  
Spokane, WA 99223

The information contained in this email is protected by the attorney-client or attorney work product privilege. If you are not the intended recipient of this email please notify me in a reply email and delete this message. Thank you.

**From:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>  
**Sent:** Tuesday, July 1, 2025 9:56 AM  
**To:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>  
**Cc:** Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>; Kirsten Price <[kprice@lukins.com](mailto:kprice@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Pat:

Thank you for speaking with me yesterday about these discovery issues. However, your email below only partially reflects our CR 26 conference. The purpose of this email is to identify the remaining deficiencies in Mr. Merkel's production that you stated you did not intend on supplementing.

First, as your email acknowledges, Mr. Merkel provided his log in credentials for his Nextdoor account back in January 2025 and therefore the City already has this information, unless he has changed his log in credentials. Thus, Mr. Merkel is not offering us anything new. Even with the log in credentials, the City still cannot access all of the information that it needs from Nextdoor. For starters, Mr. Merkel caused numerous delays in that process by refusing to make himself available during the multi-step authentication process, which is of course required to gain access on each attempt. In addition, once

“the City obtained access to the Nextdoor account, it still could not locate and download Mr. Merkel’s directs messages and posts/comments on other users’ posts/comments. Nevertheless, I am still waiting to hear back from my client to determine whether obtaining the Nextdoor log in credentials will cure Mr. Merkel’s deficient responses to RFP Nos. 6, 7, and 8. I will follow up with you later this week to give you a better answer.

Second, during our phone call, I expressed concern that Mr. Merkel still had not identified any other accounts on any other internet-based social media networking websites (Facebook, Twitter, TikTok, etc.). As a result, Interrogatories Nos. 13-17 are materially deficient and require supplementation. To that end, we need to know whether Mr. Merkel intends on providing log in credentials to his other social media accounts. However, as it currently stands, we consider RFP Nos. 9-20 to be materially deficient and in need of supplementation.

Third, we understand that Mr. Merkel intends to stand on his “right to privacy” objections and withhold responses to the following requests: Interrogatories Nos. 19, 21, 22, 23, 24 and RFP Nos. 9-30. As discussed in our June 27, 2025 letter, we entirely disagree with your interpretation and application of the PRA, Washington State Constitution, and U.S. Constitution. We further disagree with your application of a “right to privacy” based on any freedom of group, political association, or freedom of speech under the First Amendment to the U.S. Constitution—which are objections that have already been waived. The reality is that we have only requested the production of Mr. Merkel’s communications regarding City business and as a city councilmember, these are plainly within the public sphere and discoverable. As a result, Interrogatories Nos. 19, 21, 22, 23, 24 and RFP Nos. 9-30 require supplementation.

Fourth, with regard to our request for basic background information, you stated that Mr. Merkel will supplement his answers to Interrogatory No. 10 covering his criminal history, if any. However, you refused to agree to supplement Interrogatory Nos. 7 (full names, date of birth, and place of birth), 8 (educational history), and 9 (employment history). These requests require supplementation.

Fifth and finally, you stated that Mr. Merkel did not intend on supplementing his deficient response to RFP No. 5, which simply seeks all documents concerning this lawsuit that Mr. Merkel has received through public records requests, FOIA requests, and/or subpoenas. Therefore, we consider this request material deficient and in need of supplementation.

Based on our conference and your email below, there are currently no less than 33 outstanding requests that Mr. Merkel is refusing to answer or respond to. This constitutes a violation the City’s right to conduct basic discovery in this case. As a result, we will likely be filing a motion to compel in the coming days. That said, I do intend on following up with you to determine whether providing Nextdoor log in credentials cures RFP Nos. 6, 7, and 8.

Thank you,

Reid Johnson  
**PRINCIPAL**  
O: (509) 455-9555

 Lukins & Annis, P.S. 717 W Sprague Ave., Suite 1600 Spokane, WA 99201

**From:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>  
**Sent:** Monday, June 30, 2025 3:28 PM  
**To:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>  
**Cc:** Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>; Kirsten Price <[kprice@lukins.com](mailto:kprice@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Reid, thank you for your email below expending time until two weeks after the July 18, 2025, hearing on Defendant's Motion To Dismiss for Mr. Merkel to supplement his Answers, Response, and Objections—provided the Court denies Defendant's Motion To Dismiss.

As I told you today during our phone conference, without waiving his objections, Mr. Merkel will provide you the log in credentials for his Next Door social media account in his First Supplemental Answers, Responses, and Objections to Plaintiff's First Set of Rogs/RFP's, which I plan to serve upon you tomorrow. Mr. Merkel will accordingly supplement his Answers and Responses, if necessary, after the court rulings on July 18.

Mr. Merkel will cooperate with you and your client the City of SV in providing you with whatever information you need to access his Next Door social media account. Mr. Merkel provided his log in credentials and authentication information to City Attorney Kelly Konkright in January before you filed your Complaint, and Attorney Konkright did in fact log into Mr. Merkel's Next Door account and had access all its data. Nevertheless, Mr. Merkel is willing continue to cooperate with the City of SV to access all the data on his Next Door account. Mr. Merkel's postings on his Next Door social media account are available to any user of the social media platform—including the City of Spokane Valley—and as such have always been available to the City.

However, as I indicated today during our telephonic discovery conference, Mr. Merkel objects to the disclosure of his private electronic communications protected his right to privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to U.S. Constitution, and invasion of private affairs protected by Washington State Constitution Article 1, Section 7. See *T.S. v. Boy Scouts Of America*, 157 Wn.2d 416 (2006).

Furthermore, as I explained to you today during our phone conference, Councilmember Merkel's communications with his political groups regarding his political activities and political dissident beliefs, and the identities of the members of

his political groups, are privileged communications protected by his right to privacy in freedom of group and political association and freedom of speech under the First Amendment to the U.S. Constitution. See *Eugster v. City of Spokane*, 121 Wn. App. 799 (Div. 3 2004), review denied 153 Wn.2d 1012 (2005).

I will file a CR 26(c) Motion For Protective Order for protect Mr. Merkel from disclosing to the City of SV his private personal communications and his political communications, or in the alternative, a protective order prevent the City from disclosing in response to a public records request any such materials until such time the Court may conduct an *in camera* inspection to determine what, if any of it, meets the definition of “public records” pursuant to 42.56.010 (3), as interpreted by *Nissen v. Pierce County*, 183 Wn.2d 863 (2015), and further clarified by *West v. Puyallup*, 2 Wn. App.2d 586 (Div. 2 2018).

**Patrick J. Kirby**



P. 509-835-1200  
[WWW.PKIRBYLAW.COM](http://WWW.PKIRBYLAW.COM)  
4353 S. Greystone Lane  
Spokane, WA 99223

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**From:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>  
**Sent:** Monday, June 30, 2025 10:26 AM  
**To:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>  
**Cc:** Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>; Kirsten Price <[kprice@lukins.com](mailto:kprice@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Pat:

With respect to your offer to provide Mr. Merkel’s social media communications, is your client willing to commit to doing everything necessary to access the social media pages, including completing the two-factor authentication process in person? I will take this to my client to determine if this something that they can live with, but I’m confident they will need some additional assurances that Mr. Merkel will willingly assist with providing access.

Best,

Reid Johnson  
PRINCIPAL  
O: (509) 455-9555

**From:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>  
**Sent:** Monday, June 30, 2025 9:35 AM  
**To:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>  
**Cc:** Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>; Kirsten Price <[kprice@lukins.com](mailto:kprice@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel

Reid, are we still having a phone conference this morning? I just left you a voicemail. Let me know if you need to reschedule. Thanks.

*Patrick J. Kirby*



P. 509-835-1200  
[WWW.PKIRBYLAW.COM](http://WWW.PKIRBYLAW.COM)  
4353 S. Greystone Lane  
Spokane, WA 99223

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**From:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>  
**Sent:** Thursday, June 26, 2025 3:16 PM  
**To:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>  
**Cc:** Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>; Kirsten Price <[kprice@lukins.com](mailto:kprice@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel

I can just give you a call.

Reid Johnson  
**PRINCIPAL**  
O: (509) 455-9555

● Lukins & Annis, P.S. 717 W Sprague Ave., Suite 1600 Spokane, WA 99201

**From:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>  
**Sent:** Thursday, June 26, 2025 3:09 PM  
**To:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>  
**Cc:** Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>; Kirsten Price <[kprice@lukins.com](mailto:kprice@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

9:30 a.m. Monday June 30 works for me. Are you calling me, or sending me a videoconference invitation?

*Patrick J. Kirby*



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4353 S. Greystone Lane  
Spokane, WA 99223

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**From:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>  
**Sent:** Thursday, June 26, 2025 2:41 PM  
**To:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>  
**Cc:** Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>; Kirsten Price <[kprice@lukins.com](mailto:kprice@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

How about 9:30?

Reid Johnson  
**PRINCIPAL**  
O: (509) 455-9555

● Lukins & Annis, P.S. 717 W Sprague Ave., Suite 1600 Spokane, WA 99201

**From:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>  
**Sent:** Thursday, June 26, 2025 8:49 AM  
**To:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>  
**Cc:** Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>; Kirsten Price <[kprice@lukins.com](mailto:kprice@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

I am available Monday June 30. Let me know what time works best for you.

*Patrick J. Kirby*



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Spokane, WA 99223

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**From:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>  
**Sent:** Thursday, June 26, 2025 6:25 AM  
**To:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>  
**Cc:** Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>; Kirsten Price <[kprice@lukins.com](mailto:kprice@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Pat:

We will get you our position on your objections in writing this week, potentially today. Given your request, should we try to confer either tomorrow or Monday? I apologize as I've been out of office since last week.

On your second note, the City will not stipulate to your proposal. You will need to seek court approval for your proposed protective order.

Reid Johnson  
PRINCIPAL  
O: (509) 455-9555

● Lukins & Annis, P.S. 717 W Sprague Ave., Suite 1600 Spokane, WA 99201

**From:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>  
**Sent:** Tuesday, June 24, 2025 1:33 PM  
**To:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>  
**Cc:** Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>; Kirsten Price <[kprice@lukins.com](mailto:kprice@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Reid, I am available Thursday afternoon June 26. My objections to your discovery requests speak for themselves. Please send me an email detailing your questions or concerns regarding my objections to your voluminous discovery requests before we meet so that we can spend our time productively conferring.

Will you stipulate to a protective order Protective Order which will prevent disclosure of Mr. Merkel's private electronic communications from becoming public records until after the court can review the communications *in camera* to determine if they are "public records" as defined by Washington state case law so as to protect Mr. Merkel's right to privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to the U.S. Constitution, and Article 1, Section 7 of the Washington State Constitution?

**Patrick J. Kirby**



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[WWW.PKIRBYLAW.COM](http://WWW.PKIRBYLAW.COM)  
4353 S. Greystone Lane  
Spokane, WA 99223

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**From:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>  
**Sent:** Tuesday, June 24, 2025 8:52 AM  
**To:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>  
**Cc:** Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>; Kirsten Price <[kprice@lukins.com](mailto:kprice@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Pat:

My apologies on the delayed response. We have effectively allowed your client to wait to produce responsive records until after the July 18 hearing date. We will permit the extension until two weeks after the hearing date if the Motion to Dismiss is denied.

I would also like to set a time to confer about Mr. Merkel's discovery objections. Are you available either Thursday or Friday this week?

Thanks,

Reid Johnson  
**PRINCIPAL**  
O: (509) 455-9555  
■ Lukins & Annis, P.S. 717 W Sprague Ave., Suite 1600 Spokane, WA 99201

**From:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>  
**Sent:** Monday, June 9, 2025 3:26 PM  
**To:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>; Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>  
**Cc:** Fiona Spring <[fspring@lukins.com](mailto:fspring@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Counsel attached are Defendant Merkel's Answers, Responses and Objections to Plaintiff City SV Rogs & RFPs which I hand-delivered this afternoon to your office.

“Please let me know if want to set a date to confer regarding Defendant Merkel’s objections to your discovery requests. I would like to know if you would be willing to stipulate to a Protective Order which would not require Mr. Merkel to answer or respond until after the July 18 hearing on Defendant’s Motion To Dismiss to save Mr. Merkel the unnecessary expense and costs of attorneys’ fees in the event Plaintiff’s Complaint is dismissed. At present time there is Civil Case Schedule Order, and no discovery cut off date, and therefore no prejudice to the Plaintiff City SV to extend time until after the July 18 hearing on the Motion To Dismiss for Mr. Merkel to respond to discovery requests.

In the event the Court does not grant Defendant’ Motion To Dismiss, I also propose a Protective Order which will prevent disclosure of Mr. Merkel’s private electronic communications from becoming public records until after the court can review the communications *in camera* to determine if they are “public records” as defined by Washington state case law so as to protect Mr. Merkel’s right to privacy by RCW 42.46.050 and 42.56.230 and the 4<sup>th</sup> and 14<sup>th</sup> Amendments to the U.S. Constitution, and Article 1, Section 7 of the Washington State Constitution.

*Patrick J. Kirby*



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[WWW.PKIRBYLAW.COM](http://WWW.PKIRBYLAW.COM)  
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Spokane, WA 99223

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**From:** Patrick J. Kirby  
**Sent:** Friday, May 30, 2025 12:06 PM  
**To:** 'Reid G. Johnson' <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>; 'Fiona Spring' <[fspring@lukins.com](mailto:fspring@lukins.com)>; 'Michael J. Hines' <[mhines@lukins.com](mailto:mhines@lukins.com)>; 'Zaine M. Yzaguirre' <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>  
**Cc:** 'Fiona Spring' <[fspring@lukins.com](mailto:fspring@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Counsel attached is Defendant Merkel’s Notice of Hearing July 18, 2025, 2:30 p.m. on Motion For Protective Order which was filed with the clerk of court today and a copy hand delivered to your office today.

*Patrick J. Kirby*



P. 509-835-1200  
[WWW.PKIRBYLAW.COM](http://WWW.PKIRBYLAW.COM)  
4353 S. Greystone Lane  
Spokane, WA 99223

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**From:** Patrick J. Kirby  
**Sent:** Tuesday, May 27, 2025 10:27 AM  
**To:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>; Fiona Spring <[fspring@lukins.com](mailto:fspring@lukins.com)>; Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>  
**Cc:** Fiona Spring <[fspring@lukins.com](mailto:fspring@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Reid, given that Defendant Merkel's motion to dismiss has been re-set from May 9 to July 18 it makes sense to extend time for Defendant's answers and responses to Plaintiff's Rogs/RFPs to 30 days after July 18. It would be a waste of Defendant's attorney's fees and my time to prepare Answers and Responses if the Plaintiff's complaint is dismissed. Plus, there is no prejudice to the Plaintiff City of SV because there is no case schedule order in place and therefore no discovery cutoff date. Please let me know if you agree. Thanks.

*Patrick J. Kirby*



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[WWW.PKIRBYLAW.COM](http://WWW.PKIRBYLAW.COM)  
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Spokane, WA 99223

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**From:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>  
**Sent:** Monday, April 14, 2025 6:41 AM  
**To:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>; Fiona Spring <[fspring@lukins.com](mailto:fspring@lukins.com)>; Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>  
**Cc:** Fiona Spring <[fspring@lukins.com](mailto:fspring@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel [DMS-029181-00019]

Good morning Patrick:

My apologies for the delayed response as we were out of office last week.

We are amenable to staying the pending discovery requests until 30 days after the hearing (May 9, 2025) on the Motion to Dismiss.

If you'd like to discuss further, I have availability this week.

Best,

Reid Johnson  
**PRINCIPAL**  
O: (509) 455-9555

 **Lukins & Annis, P.S.** 717 W Sprague Ave., Suite 1600 Spokane, WA 99201

**From:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>

**Sent:** Wednesday, April 9, 2025 3:34 PM

**To:** Fiona Spring <[fspring@lukins.com](mailto:fspring@lukins.com)>; Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>; Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>

**Cc:** Fiona Spring <[fspring@lukins.com](mailto:fspring@lukins.com)>

**Subject:** RE: City of Spokane Valley v. Albert W. Merkel

Counsel will you stipulate to staying discovery pending the Court's ruling on Merkel's CR 12(b)(6) Motion To Dismiss, and for 60 days thereafter if the motion is denied to protect Merkel from the undue burden and expense of answering, responding, and objection to Plaintiff's First Set of Interrogatories and Requests For Production of Documents?

*Patrick J. Kirby*



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[WWW.PKIRBYLAW.COM](http://WWW.PKIRBYLAW.COM)  
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Spokane, WA 99223

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**From:** Patrick J. Kirby

**Sent:** Monday, April 7, 2025 2:57 PM

**To:** Fiona Spring <[fspring@lukins.com](mailto:fspring@lukins.com)>

**Cc:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>; Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre

[<zyzaguirre@lukins.com>](mailto:zyzaguirre@lukins.com)

**Subject:** RE: City of Spokane Valley v. Albert W. Merkel

Counsel, please let me know when we can set at CR 26(i) phone conference to discuss your discovery requests. Thanks. I am available April: Tuesday 8<sup>th</sup> all day, Wednesday 9<sup>th</sup> all day, Thursday 10<sup>th</sup> all day, and Friday 11<sup>th</sup> afternoon. Thanks.

*Patrick J. Kirby*



P. 509-835-1200  
[WWW.PKIRBYLAW.COM](http://WWW.PKIRBYLAW.COM)  
4353 S. Greystone Lane  
Spokane, WA 99223

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**From:** Patrick J. Kirby  
**Sent:** Monday, April 7, 2025 1:24 PM  
**To:** Fiona Spring <[fspring@lukins.com](mailto:fspring@lukins.com)>  
**Cc:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>; Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>  
**Subject:** RE: City of Spokane Valley v. Albert W. Merkel

Please email to me a courtesy copy of your Rogs & RFP's in MS Word format. Thank you.

*Patrick J. Kirby*



P. 509-835-1200  
[WWW.PKIRBYLAW.COM](http://WWW.PKIRBYLAW.COM)  
4353 S. Greystone Lane  
Spokane, WA 99223

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**From:** Fiona Spring <[fspring@lukins.com](mailto:fspring@lukins.com)>  
**Sent:** Friday, March 21, 2025 2:42 PM  
**To:** Patrick J. Kirby <[pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)>  
**Cc:** Reid G. Johnson <[rjohnson@lukins.com](mailto:rjohnson@lukins.com)>; Michael J. Hines <[mhines@lukins.com](mailto:mhines@lukins.com)>; Zaine M. Yzaguirre <[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>

<[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)>

**Subject:** City of Spokane Valley v. Albert W. Merkel

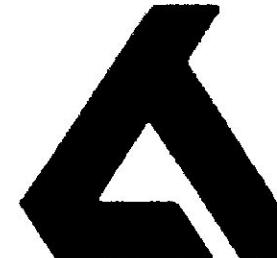
Mr. Kirby,

Please find Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant attached. A hard copy of the same will follow via U.S. Mail.

Thank you.

Best regards,

**Fiona Spring**  
**LEGAL ASSISTANT**  
O: (509) 455-9555  
D: (509) 242-2262  
F: (509) 363-2510  
E: [fspring@lukins.com](mailto:fspring@lukins.com)



**Lukins & Annis, P.S. 717 W Sprague Ave., Suite 1600 Spokane, WA 99201**

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## CERTIFICATE OF SERVICE

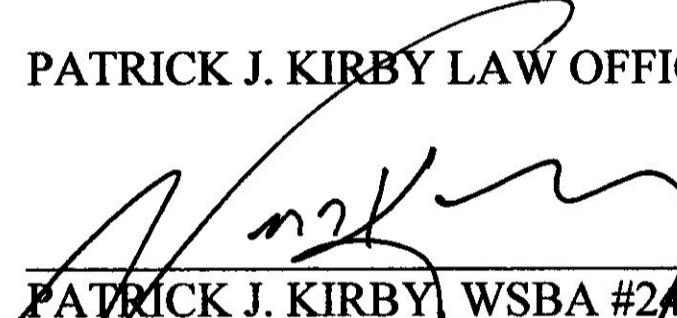
I HEREBY CERTIFY that on the 7<sup>th</sup> day of July, 2025, I caused to be served a true and correct copy of the foregoing document to the following:

- HAND DELIVERY
- U.S. MAIL
- OVERNIGHT MAIL
- FACSIMILE
- 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  
Spokane, WA 99201

Telephone: (509) 455-9555  
Fax: (509) 747-2323  
Email: [rjohnson@lukins.com](mailto:rjohnson@lukins.com)  
[mhines@lukins.com](mailto:mhines@lukins.com)  
[zyzaguirre@lukins.com](mailto:zyzaguirre@lukins.com)

PATRICK J. KIRBY LAW OFFICE, PLLC

  
PATRICK J. KIRBY, WSBA #24097  
*Attorney for Defendant Albert W. Merkel*  
4353 S. Greystone Lane  
Spokane, Washington 99223  
Telephone: (509) 835-1200  
Facsimile: (509) 624-3493  
Email: [pkirby@pkirbylaw.com](mailto:pkirby@pkirbylaw.com)

DECLARATION OF  
PATRICK J. KIRBY - 6