

16098 WSA
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STANDARD TORT CLAIM FORM

General Liability Claim Form #SF210

Pursuant to RCW 4.96, this form is for filing a tort claim against Clark County Washington. Information requested on this form is required by 4.09.100 and may be subject to public disclosure. Claim forms cannot be submitted electronically (via e-mail or fax.)

PLEASE TYPE OR PRINT IN INK

Mail or deliver Clark County Risk Management
Original claim Attn: Risk Manager
To: PO Box 5000
1300 Franklin St, Ste 644
Vancouver, WA 98666-5000

RECEIVED

OCT 19 2016

**CLARK COUNTY
RISK MANAGEMENT**

CLAIMANT INFORMATION

1. Claimant's Name: Benton Donald Mark Date of Birth: 04/08/57
Last First Middle (mm/dd/yy)

2. Current residential address: [REDACTED]
Address City State Zip

3. Mailing address (if different) [REDACTED]
Address City State Zip

4. Residential address at the time of incident (if different from current address):
[REDACTED]
Address City State Zip

5. Claimant's daytime telephone number (include area code): [REDACTED]

6. Claimant's email address: [REDACTED]

INCIDENT INFORMATION

7. Date of the incident: See attached Exhibit 1.

8. If the incident occurred over a period of time, date of first and last occurrences: See attached Exhibit 1.

9. Location of incident:

Washington, Clark County Vancouver Clark County
State and County City, if applicable Place where occurred

10. If the incident occurred on a street or highway:

[REDACTED] [REDACTED] [REDACTED]
Name of street or highway milepost number At the intersection with or nearest intersecting street

11. County agency or department alleged responsible for damage/injury:
[REDACTED]

12. Names, addresses, and telephone numbers of all persons involved in or witness to this incident:

- Cary Armstrong, Clean Water Division, Clark County
- Ed Barnes, former County Commissioner, Clark County
- Bill Barron, former County Administrator, Clark County
- Susan Benton
- Jo Berg, Solid Waste Division, Clark County
- Dean Boening, Clean Water Division, Clark County
- Marc Boldt, County Councilor, Clark County
- Nick Cimmiyotti, former Administrative Services Manager, Clark County
- Christopher Clifford
- Brent Davis, Community Development, Clark County
- Mike Davis, Clark County
- Pete DuBois, Solid Waste Division, Clark County
- Heather Gantz, Consultant from Waldron
- Daniel Harrigan, Human Resources Director's Assistant, Clark County
- Heath Henderson, Director of Public Works, Clark County
- Chris Horne, Assistant Prosecuting Attorney, Clark County
- Marlia Jenkins, Management Analyst, Clark County
- Greg Kimsey, Election Officer, Clark County
- Mande Lawrence, Department Human Resources Representative, Clark County
- Pat Lee, Legacy Lands Division, Clark County
- Andrew Loescher, Public Information and Outreach, Clark County
- David Madore, County Councilor, Clark County
- Angela Maduta, Solid Waste Division, Clark County
- Mark McCauley, County Manager, Clark County
- Alan Melnick, Director of Clark County Public Health, Clark County
- Tom Mielke, County Councilor, Clark County
- Christina Monks, Human Resources Department, Clark County
- Trish Murphy, Investigator from NW Workplace Law
- Julie Olson, County Councilor, Clark County
- Oliver Orjiako, Director of Community Planning, Clark County
- Alissa Page, Accounts Payable, Clark County
- Bob Patterson, Clean Water Division, Clark County
- Tina Redline, County Assistant, Clark County
- Francine Reis, Human Resources Director, Clark County
- Carmen Reynolds, Vegetation Division, Clark County
- Susan Rice
- Marty Snell, Director of Community Development, Clark County
- Cindy Steinberger, Clark County
- Bob Stevens, Assistant County Manager, Clark County
- Jeanne Stewart, County Councilor, Clark County
- Kevin Tyler, Public Works, Clark County
- Ron Wierenga, Clackamas County
- Mark Wilsdon, Risk Manager, Clark County
- Ron Zito, Human Resources Representative, Clark County

13. Names, addresses, and telephone numbers of all county employees having knowledge about this incident:

Please refer to the witnesses above. Most of the witnesses above are County employees. Claimant believes that the witness addresses and telephone numbers are available to Clark County by and through their directories and personnel files.

14. Names, addresses, and telephone numbers of all individuals not already identified in #12 and #13 above that have knowledge regarding the liability issues involved in this incident, or knowledge of the Claimant's resulting damages. Please include a brief description as to the nature and extent of each person's knowledge. Attach additional sheets if necessary. This information will be obtained through the formal discovery process, and the request at this time exceeds the statutory requirements of RCW 4.96.020.

15. Describe the cause of the injury or damages. Explain the extent of the property loss or medical, physical, or mental injuries.

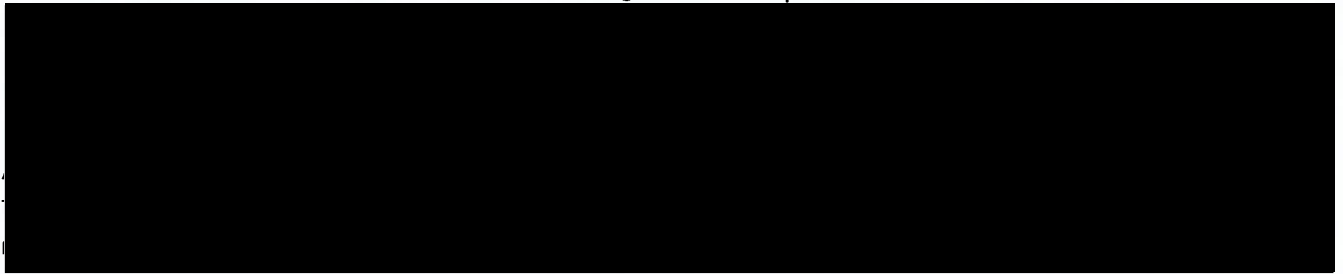
Attach additional sheets if necessary.

See attached Exhibit 1.

16. Has this incident been reported to law enforcement, safety, or security personnel? If so, when and to whom?

See attached Exhibit 1.

17. Names, addresses, and telephone numbers of treating medical care providers.



18. Please attach documents which support the claim's allegations (photos, police reports, estimates, etc.)

This information will be obtained through the formal discovery process, and the request at this time exceeds the statutory requirements of RCW 4.96.020.

19. I claim damages from Clark County in the sum of \$2,000,000.

The Claimant must sign this form unless he or she is incapacitated, a minor, or a nonresident of the state, in which case, it may be signed on behalf of the Claimant by any relative, attorney, or agent representing the Claimant.

Pursuant to RCW 4.96.020(3)(b)(iii), I verify as claimant's attorney that the foregoing is true and correct to the best of my knowledge and belief.

Thomas S. Boothe

Thomas S. Boothe, WSBA #21759

7635 SW Westmoor Way

Portland, OR 97225

16 October 2014

Date

RECEIVED

OCT 19 2016

CLARK COUNTY
RISK MANAGEMENT

TORT CLAIM NOTICE

TO : Clark County Risk Management
Attn.: Risk Manager
PO Box 5000
1300 Franklin St., Ste 644
Vancouver, WA 98666-5000

Claimant : Mr. Donald Benton, Mr. Chris Clifford and Ms. Susan Rice

**Actual Residence
of Claimant** :

Donald Benton
[REDACTED]

Christopher Clifford
[REDACTED]

Susan Rice
[REDACTED]

Time, Date and Location of Incidents:

The incidents occurred over a multiyear period and are briefly summarized below.

Details of Incidents:

On May 6, 2013, Bill Barron, the then County Administrator, hired Benton, State Senator for the Washington's 17th legislative district, as the Director of the Department of Environmental Services (DES). In Barron's letter, he reiterated the agreement between Benton and Barron that, as an elected member of the Washington State Senate and while he is away from the county on state business, Benton will take a leave of absence from his position as Director of DES. While on leave of absence, Benton could take leave on a paid time off basis, or not, at his discretion and the availability of accrued time off.

During June of 2013, Benton hired Clifford as the Program Coordinator in the Clean Water Division. Clifford worked for DES on or about July 22, 2013.

Exhibit 1 (Page 1 of 11) to Standard Tort Claim Form: Don Benton, Chris Clifford, Susan Rice

On or about September 10, 2013 Barron retired and Mark McCauley was appointed as acting County Administrator. Before he departed, Barron gave Benton high compliments regarding Benton's job performance .

On or about November 8, 2013, Benton, announced Rice as his new Administrative Assistant, promoting her from within the organization. Rice had been employed by Clark County for the previous 16 years as an Office Assistant.

During December of 2013, McCauley yelled at Clifford at a Christmas silent auction in front of public and other employees due to an article by Benton.

On or about January 3, 2014, McCauley approved Benton's telecommuting and flex hours to help accommodate Benton's legislative service during the legislative session. McCauley even defended this in an article in the local paper. Benton regularly worked weekends, 15-hour days and telecommuted at all hours throughout the rest of his employment with the County until the new commissioners were sworn in in January 2016.

On or about February 12, 2014, Benton received a performance evaluation from McCauley, who spoke highly of Benton and rated Benton "successful" and "exceptional" in all categories.

In March of 2014, Benton informed McCauley that Oliver Orijako, Planning Director, was abusing his power during the 2011 comprehensive plan by removing a property owner's parcel from within the urban growth boundary because the property owner would not sell to a specific developer. McCauley replied, "He shouldn't have been so greedy."

In May of 2014, Benton submitted a proposed department budget for 2015/16 that was \$8 million less than the 2013/14 budget. This was the only County department of any size to reduce their budget.

On or about May 27, 2014, the Clark County Board of Freeholders adopted the current Home Rule Charter, which designates all Clark County employees as protected by the human resources policy. The only employee to serve "at-will" is the County Manager.

On or about December 18, 2014, McCauley attended Benton's department's all staff holiday meeting at Benton's insistence. A nasty political attack was voiced by a departing Commissioner that the local paper had used to regularly hurt department morale, so McCauley joined Benton in putting down the public/political rumor that the department would be dissolved. Even though McCauley agreed to the statement there are no "current or future plans at this time to dissolve or consolidate the department of environmental services", he continued to undermine morale in their department.

In mid-December of 2014, Benton reported to McCauley that Public Works transferred \$124,000 out of DES's Conservation Futures account without permission or knowledge of anyone in DES. Benton tells McCauley that the Audit Office ordered the transfer reversed because of a lack of documentation.

Benton also let McCauley know that, earlier in the year, the Budget Office approved a supplemental and took it to the Board of County Councilors (BOCC), which they approved, for Public Works/Parks that also took \$16,000 from Benton's budget with no one in DES being aware of it or approving it.

Benton made a request to McCauley for better controls on budget transfer and stated that he felt these budget transfers were not appropriate, ethical or transparent.

McCauley insisted that Benton was wrong and yelled at Benton to let the matter go.

Benton received approval from McCauley to appoint Pete DuBois as Division Manager. On the Tuesday following, after Benton announced the appointment to DuBois and all of the managers, Benton received an email from McCauley stating Benton needed to go out for applications for the position, reversing his earlier approval.

Benton received approval from McCauley and the Human Resources Department (HR) for a Forester job announcement for DES. McCauley pulled the announcement from HR and did not notify Benton. Benton found out because employees wanted to apply, and the job was not posted.

In January of 2015, Benton and McCauley met prior to the legislative session to discuss Benton's hours and work plan for managing his department. It was identical to the previous year's plan, but the session would be 45 days longer than in 2014. McCauley approved the telecommuting plan again. Even though the session ran long, the department was well managed, and they reorganized a division saving the department \$134,000 every year forever. DES had the best year ever in 2015 by all performance measurements. Morale was improving again.

In March of 2015, Alissa Page from Accounts Payable emailed Benton and cc'd Rice stating there was a public disclosure request regarding Benton's employee reimbursements. Page said a citizen had questions about Benton's trip to San Diego for a conference that ended on Saturday, but Benton stayed till Sunday and was reimbursed for a hotel and car rental until Sunday in March of 2014. Rice replied stating that Benton attended no conference in San Diego and asks twice for Page to send her the request. Page replied stating that it was a meeting in San Diego, not a conference, and that "Greg" came to Page and asked for the information due to a citizen's concern.

Benton emailed Page, McCauley, Rice, Greg Kimsey and Bill Richardson and explained that he has never been to San Diego for the County. Benton requested clarification of the request. He stated that, as long as the requested records have been provided, he understood he was not required to answer additional questions. Benton explained that he has only attended one conference for the County in Santa Barbara, and Benton would have left when the conference was over, but there were no earlier flights. Finally, Benton stated this "smells a lot like harassment" and again requested to know who asked for the information.

Laurie Foster, Page's supervisor, responded to Benton's email to apologize for the confusion and stated there was no formal request for the information, but that the person who requested the records is Jack Davis. Rice also let Foster know that if they would take a closer review of the invoice from the trip, it showed that Benton had taken one day off from the car rental and hotel room such that he had paid the extra from his own pocket.

On or about June 1, 2015, Benton received a performance evaluation from McCauley, who gave Benton complimentary remarks and an overall rating of "exceptional".

In August of 2015, McCauley promised to move Heritage Farms over into the DES. A press release was prepared, and management in the department was informed. The press release was pulled when McCauley believed that, due to the election results, they should wait, showing that his decisions were not made on their merit, but were made due to politics.

On or about October 7, 2015, Benton was cc'd on an email from Lou Brancaccio, the editor and a reporter from The Columbian, to County Councilor Tom Mielke inquiring if Mielke was still going pursue action against The Columbian purporting ink pollution that newspapers cause the environment. Brancaccio said that Benton was false when he tried to claim that a bunch of Columbian newspapers were ending up in the storm water system and creating a mess.

Benton replied to Brancaccio and asked him to stop harassing Benton at work. Benton stated that he has repeatedly asked Brancaccio to not email him, that Brancaccio was wasting taxpayer's time and money, and that he made no such claim about The Columbian.

On or about October 9, 2015, McCauley emailed Benton and said he was "very concerned" about Benton's response to Brancaccio, that it was "highly unprofessional" and that it showed "a complete lack of judgment". McCauley said that it violated County policy and this behavior was something McCauley had repeatedly counseled Benton about, warned Benton about and insisted it stop. McCauley said he would take time to think about it and decide what action to take.

Later that day, Benton replied and explained that Brancaccio was harassing Benton after Benton has repeatedly asked him not to and that Benton was thinking about getting a restraining order against Brancaccio. Benton told McCauley that his blood pressure went up and he got headaches every time Brancaccio contacted Benton. Benton reiterated his request that McCauley take action to stop the harassment of Benton, as McCauley's employee. Benton promised to never correspond with Brancaccio and reminded McCauley it is the employer's responsibility to protect an employee's health and safety while at work. Finally, Benton requested that McCauley site the policy that McCauley claimed Benton violated and stated that McCauley had never counseled him regarding this matter.

In late October of 2015, Orijako presented a code change to the County commissioners in a public meeting, and Benton was asked to come forward in council chambers to address the portion of it relating to shorelines. Benton answered truthfully, and the item was delayed.

Later that day, Benton was attacked by both McCauley and Orijako for not keeping the truth from the commissioners. McCauley stormed into a management staff meeting and yelled at Benton about it in front of Benton's entire management team. Benton emailed McCauley and told him in no uncertain terms he would not lie to the County commissioners. McCauley was reprimanded by the Chair of the County commission for his behavior. Benton received a commendation for honest and thorough research.

In late October or early November, Benton wrote McCauley a letter explaining his concerns about McCauley's behavior. Benton requested that McCauley's direction of Benton be done in their one-on-one meetings, not in front of Benton's staff. Benton noted that McCauley's behavior in front his staff and McCauley's refusal to end the rumors about the consolidation of DES with Public Works was making morale issues very difficult.

In November of 2015, McCauley asked to meet with Rice to discuss a conversation he said he had with one of the County councilors, who said that a woman called him at home from DES and was crying about DES being reorganized/dissolved. McCauley told her he wanted to speak with whoever made the call and reassure her that everything would be okay. Because the caller was a woman, McCauley told Rice he thought it was her. She tells him it was not her that called, but that hearing the rumors she, Benton and Nick Cimmiyoti, DES's Administrative Services Manager, may lose their jobs had been stressful. Rice asked McCauley if he could send out an email or meet with the staff to let them know their department will be fine, but he did not respond. (Later, Rice found out that Tom Mielke made up the story about the woman calling him. She believes he told McCauley this to let McCauley know that he did not support the dissolution of the department.)

In the same meeting, Rice let McCauley know that she did not appreciate him sending emails to Benton contentious in nature. She told him that the emails are public records, and the newspaper could get them. McCauley told her this was his intention. McCauley also let Rice know that he did not like Benton.

On or about December 1, 2015, during Benton's regular one-on-one meeting with McCauley, McCauley screamed at Benton, and nearly became physical, supposedly over an audit issue that Benton felt was improper and would not go along with. Once McCauley discovered he did not have all of the facts straight, the meeting ended. Benton was upset over this and discussed what to do about it and how to handle it with two of his Director peers, Marty Snell and Mark Wilsdon, Rice, Cimmiyotti, Kevin Tyler, DES Division Manager, and Clifford.

McCauley cancelled their next two one-on-one meetings.

On or about January 1, 2016, three new County Councilors, Marc Boldt, Julie Olson and Jeanne Stewart came into power.

In January of 2016, Benton finally had another one-on-one meeting with McCauley. Benton told McCauley he wanted to avoid McCauley's verbal abuse and asks McCauley to assure him McCauley will not scream like that again. McCauley denied having lost his cool in their previous meeting.

The conversation moved on, and Benton presented him with his work schedule for the legislative session, as he had the previous two years. McCauley asked about the telecommuting, said "OK" and put the schedule in his folder. The meeting ended amicably.

Also during January of 2016, Clifford assisted Benton in developing and researching Benton's whistleblower complaint against McCauley and the practices of the County. Specifically, Clifford researched several "gifts of public funds" by McCauley and Bob Stevens, Assistant County Manager/former Budget Director.

On or about January 11, 2016, the Legislative Session started. Benton began the "partial leave of absence" Barron referred to in his employment offer letter and started the work schedule approved the previous week by McCauley.

On January 13, 2016, Benton received an email from McCauley with a letter attached demanding that Benton, as a County employee, work during the County's regular business hours: Monday through Friday, 8 a.m. to 5 p.m. During the Legislative Session, Benton could use accrued paid time off or take unpaid leave. Benton could no longer report work time on his timesheet unless he was in the County offices and that time was during regular business hours. Occasionally, McCauley might approve for Benton to work remotely, but Benton must obtain prior written approval to do so. Also while Benton was in Legislative Session, all of Benton's Division Directors were told to report to McCauley.

McCauley put this letter in Benton's personnel file. McCauley then released the letter to the local press without Benton's approval. The Columbian published an article referencing the letter.

Benton attempted to gain clarification since McCauley had just agreed to the historical way Benton had been paid a couple of days before he sent Benton this letter. Benton pointed out that McCauley's proposed pay arrangements conflicted with Barron's original pay arrangement. Benton said he did not mind doing the extra work, but he did not understand the reason for the unilateral change when DES had run smoothly during the last two legislative sessions. Finally, Benton explained there was no reason for his managers to report to McCauley, as Benton would be in the office three days per week. Benton's managers read the letter in the paper and received no communication from McCauley.

On or about January 14, 2016, after being distraught over the work environment, Benton sought medical treatment for his nerves, mental health counseling and legal advice. He completed the paperwork for FMLA leave in case his health worsened and he ran out of sick leave.

Over the next few days, McCauley continued to deny Benton's requests to reconsider his pay proposal. Rice went into Benton's office soon after Benton read McCauley's email that threatened termination if Benton did not follow his directives. Rice noticed Benton was distraught and near tears. She became increasingly concerned as Benton became paler and paler,

put his hand to his heart and said his heart was palpitating so hard that he was having difficulty concentrating and focusing.

McCauley flatly denied Benton's request to telecommute, work on the weekends or work outside the County's normal business working hours, which inhibited Benton from attending evening meetings of the divisions within his department or meeting with his staff early in the morning before they headed to the field. Benton finished up the legislative session doing what he has always done. He managed his department from Olympia and went into the office on Tuesdays, Fridays and Saturdays. He worked for free for over 200 hours to keep the department functioning.

On or about January 30, 2016, Benton released a statement announcing, that after 30 years of elective public service, the 2016 legislative session would be his last. In it, he noted that his current employer had decided that it was no longer desirable for him to serve in the legislature while doing his job at the County. Benton said he will continue to take unpaid leave during the session, as he always had.

During February of 2016, Rice asked to meet with Boldt. She let him know she had a problem with how McCauley yelled at Benton and did not follow through with Benton. Rice also told Boldt about her conversation regarding the dissolution of DES with McCauley. Boldt told her he would ask McCauley to talk to the department to help morale.

Rice also told Boldt that McCauley told her he sent nasty emails to Benton knowing they would become public record. Boldt told Rice that DES would be going nowhere. (In a May 11, 2016 article from The Columbian, Boldt said he knew nothing about the dissolution of DES.)

Finally, Boldt told Rice he did not like Benton working for both the Senate and the County, and he wanted it to be one or the other. At the end of their conversation, Boldt told Rice that their conversation would not be shared with anyone.

On or about February 19, 2016, Benton received a performance evaluation from McCauley, who again gave Benton complimentary remarks and rated him as "successful" and "exceptional" in all categories. McCauley commended Benton for bringing in new hires and saving the County about \$130,000 annually in salary costs. McCauley even said the County is better for DES's efforts and that he looks forward to more success from Benton and his department in 2016.

When Benton returned to work full time in March of 2016, even while the legislature was in special session, he learned that McCauley had no contact with Benton's managers, except for one who had to talk McCauley out of making a bad decision.

On or about March 23, 2016, Orijako filed whistleblower and harassment complaints against Councilor David Madore alleging racial discrimination. When Clifford learned of this, he emailed Madore saying the allegations are "patently false", which became public. Boldt found out about Clifford's email and emailed McCauley stating that something should be done.

McCauley verbally chastised Clifford, which directly violated the separation of powers outlined in the County Charter.

On or about April 1, 2016, Boldt sent a request to various Clark County employees, who are direct reports to McCauley, requesting their confidential participation in an evaluation of McCauley. Boldt explained that they would partner with Waldron, an independent consulting firm, to complete their evaluation and help the Board ensure an objective process. Boldt requested participants to complete a "confidential" online survey and talk with the consultant working with the County on the evaluation, Heather Gantz from Waldron. Finally, Boldt asked that participants be "open and straightforward as possible" in their responses.

On or about April 18, 2016, McCauley appeared in Benton's office unannounced and told Benton to prepare a staff report to the BOCC that would reverse a previous public vote of the board selling a piece of property. Benton explained the awkwardness of fulfilling such a request without Board action. McCauley said, "The Board wants to stop the sale." Benton emailed Patrick Lee in the Legacy Lands Division, Rice and Clifford to tell them of McCauley's request, Benton's concern and to request they prepare the report.

Benton reiterated his concerns to McCauley about a department coming back to the BOCC after they have given direction to do something and say they will not do it. Benton said that, based on McCauley's direction, they have prepared the report for the board that asks for further direction before they proceed to the final step. McCauley said this would be a good approach.

When Benton presented the report at the BOCC meeting on or about April 26, 2016, Benton corrected Councilor Olsen when she asserted that the selling of this property, or converting it, would cause unfair bias from the state when applying for a grant for the Parks Department. Bob Stevens, the Assistant County Manager, told Benton to quit lobbying the board.

On or about April 28, 2016, Benton turned in his whistleblower complaint to Francine Reis, the HR Director. He told her the only purpose in filing it was to protect his job and felt that being honest was becoming a liability.

In his complaint, Benton blew the whistle on McCauley's policy violations including McCauley's request of Benton to prepare a staff report in direct violation of a Board resolution and action, McCauley's targeting of Benton to gain favor with the new majority of the current council member to retain his position, McCauley's chastising of Clifford after he sent a supportive email to Madore after Madore was accused of racial discrimination.

Benton also accused McCauley of retaliation through McCauley's approval and rescinding of the promotion of Dubois and McCauley's direction of Benton in contradiction of standing County policy and direction voted on by the BOCC. Benton pointed out that nothing has been done to resolve any of the number of improper and illegal acts Benton brought to McCauley's attention. Benton explained how McCauley altered the conditions of Benton's employment as a fulfillment of a campaign promise made by Boldt.

Overall, Benton accused McCauley of: multiple violations of the new County Charter in hiring and failing to open jobs to the public as called for in the charter; arbitrary and disparate treatment of County employees; financial improprieties, and miss-use of enterprise funds; improper acts of county employees that have substantially harmed private property owners; violations of the Open Public Meetings Act; improperly interfering with the operations of the Department of Environmental Services in contradiction to the County Charter. Benton notes his fear of greater hostility and retaliation, even noting that the next level of retaliation might take the form of "reorganizing the department" Benton directs and terminating his position, which Benton felts as though was already occurring at the request of Boldt. Finally, Benton said that his complaint has already been forwarded to the Washington State's Auditor's Office and the Washington State Attorney General's Office.

On or about April 30, 2016, Benton cancelled a vacation due to his medical condition being exacerbated by the stress of feeling as though he had no other options to protect his job than filing the complaint. He was worried Reis would tell McCauley, and Benton would lose his job.

When Benton returned to work on or about May 9, 2016, he was informed that a workplace investigator wanted to investigate his whistleblower complaint. Benton agreed to meeting with Trish Murphy of NW Workplace Law on Tuesday, May 10th and explained everything he knew to her.

On May 11, 2016, under the facade of a code enforcement briefing, McCauley called Benton into a meeting in the conference room on Benton's floor. Benton realized McCauley would terminate him. McCauley gave Benton his layoff notice, which stated that the position was being eliminated as part of the reorganization of DES and because of budget shortfalls anticipated for 2017-2018. Benton was placed on administrative leave until June 30, 2016, and was told to be available from 8:00 a.m. to 5:00 p.m. during this period unless he received pre-approval for leave. It then became clear to Benton that McCauley would also terminate all involved in discovering and uncovering the wrong doing. Within the hour Benton, Cimmiyotti, Rice and Clifford were all fired. The HR representative in attendance, Ron Zito, told Benton he knew nothing of the reorganization until a few days earlier.

Benton, Rice, Cimmiyotti were all escorted from the building. Zito allowed Rice to get her purse and told her she would have to come back on an evening or on a Saturday to obtain the remainder of her belongings. Zito reiterated a recommendation he made in his earlier meeting with her that she contact HR to learn about other positions available within the County for which she may be qualified. Rice told him she believed she would be blackballed. Rice felt betrayed, humiliated and could not sleep that night, as she was concerned about all of the open-ended projects she left behind.

Clifford was informed of his termination over the telephone by Zito and Marla Jenkins, the Management Analystist for McCauley. He was not provided any of the notice material for several weeks. Clifford could not come to the office to collect his belongings; they were mailed to him.

Clifford was told his termination was due to potential general budget shortfall. However, none of his salary was paid for from the General Fund. He worked in the Clean Water Division, and their salaries were covered by the Clean Water fee revenue, an enterprise fund.

On May 12, 2016, Rice noticed that an article describing the terminations and reorganization of the DES from The Columbian was published *while* Rice was being terminated. This article contained quotes from Clifford, McCauley and Boldt

On May 13, 2016, The Columbian published an article stating that they were provided a copy of Benton's whistleblower complaint. In the same article, The Columbian reported that McCauley did not know about the complaint until The Columbian contacted him for a comment.

When Benton called Andrew Loescher, the Public Information and Outreach Representative for DES, to request the 2015 Annual Report to Benton. Benton received an email from HR telling him to not contact staff directly and that if he needed anything, he needed to contact HR. Benton was told that if he contacted staff, his severance pay would end.

On or about May 14, 2016, Rice met with Zito at the County offices to retrieve her belongings. The drawers she left locked were now all unlocked, and the documents within the drawers were missing. She explained to Zito she was concerned it would look like she stole them. He told her he was her witness to her leaving the documents there when she left a few days ago.

Rice applied for at least three positions at the County, has only received one interview and has not been offered any of the positions.

On or about September 24, 2016, Clark County Human Resources Employment Opportunities listed a new job opening in DES – Clean Water Program with an hourly wage that was more than what Rice made.

Claimant's Injury:

Don Benton has experienced economic damages through losing his job and benefits, reduced future employability and ongoing medical expenses. Benton has experienced noneconomic injury through his emotional distress due to the retaliation he experienced from Clark County.

Chris Clifford has experienced economic damages through losing his job and benefits, reduced future employability and ongoing medical expenses. Clifford has experienced noneconomic injury through his emotional distress due to the retaliation he experienced from Clark County

Susan Rice has experienced economic damages through losing her job and benefits, reduced future employability and ongoing medical expenses. Rice has experienced noneconomic injury through her emotional distress due to the retaliation she experienced from Clark County.

Legal Basis:

42 U.S.C. § 2000e, *et seq* (Title VII of the Civil Rights Act of 1964); RCW 49.60.010, *et seq* (Washington Law Against Discrimination); and other federal and state statutes.

Amount of damages claimed:

For the County's ability to set aside appropriate loss reserves, Benton's total damages are estimated by his attorney to be \$2,000,000.

For the County's ability to set aside appropriate loss reserves, Clifford's total damages are estimated by his attorney to be \$2,000,000.

For the County's ability to set aside appropriate loss reserves, Ms. Rice's total damages are estimated by her attorney to be \$1,000,000.

DATED: October 17, 2016.



Thomas S. Boothe, WSB No. 21759
Attorney for Claimant
7635 SW Westmoor Way
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