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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASCO

JOHN L. WOOD, an individual,

Plaintiff,

v.

WASCO COUNTY, political subdivision
of the State of Oregon; and SCOTT
HEGE, STEVE KRAMER, and ROD
RUNYON, each in their individual and
official capacities as members of the
Board of County Commissioners of
Wasco County, Oregon,

Defendants.

Case No.: CC 15-40

MOTION FOR PROTECTIVE ORDER

Expedited Oral Argument Requested

CERTIFICATE OF COMPLIANCE WITH UTCR 5.010

The undersigned certifies that prior to filing this motion he conferred with counsel for
Plaintiff and they were unable to resolve the matter.

UTCR 5.050 ORAL ARGUMENT REQUESTED

- 1. Estimated Time for Oral Argument: 30 minutes
- 2. Official Court Reporting Services Requested: Yes
- 3. Oral Argument Request by Telephone: No

1 MOTION

2 Defendants, Wasco County, Scott Hege, Steve Kramer, and Rod Runyon, each in their
3 individual and official capacities as members of the Board of County Commissioners of
4 Wasco County, Oregon (*Defendants*), by and through their attorney for record Bradley V.
5 Timmons, hereby move the Court for a Protection Order as follows:

6 1. For an order suspending all discovery including but not limited to the deposition
7 of Defendants Scott Hege, Steve Kramer and Rod Runyon currently Noticed for March 31,
8 April 1, 2015, the Request for Production and Request for Admissions due April 6, 2015, and
9 the Subpoenas Duces Tecum to Dwayne Francis and Kathy Schwartz, until 30 days after the
10 parties have completed their motion practice including, but not limited to a Motion to Dismiss
11 and Strike filed concurrently with this and a Motion for Summary Judgment which will be
12 filed thereafter.

13 2. In the alternative, Defendants request an order requiring Plaintiff to tender
14 \$25,000.00 to Defendants as their anticipated reasonable expenses incurred in responding to
15 Plaintiff's unreasonable discovery requests.

16 3. Defendants further seek an award of their reasonable attorneys fees and costs
17 herein pursuant to ORCP 36C and 46A(4).

18 POINTS AND AUTHORITIES

19 This Motion is filed pursuant to ORCP 36C, 46A, the trial court file herein, the
20 Memorandum of Law below and the Declaration of Bradley V. Timmons all filed
21 concurrently herewith.

22 MEMORANDUM OF LAW

23 Pursuant to ORCP 36C upon motion by a party, and for good cause shown, the court in
24 which the action is pending may make any order which justice requires to protect a party or

1 person from annoyance, embarrassment, oppression, or undue burden or expense, including
2 that the discovery not be had. The granting or denial of a protective order is
3 discretionary. *Farmers Ins. v. Hansen*, 46 Or App 377, 380 (1980).

4 In the present case, Plaintiff filed an action against Defendant alleging violations of
5 Oregon's Public Meetings laws ORS 192.610 *et seq.* (OPML) in regards to the procedural
6 mechanisms employed in the decision and ultimate withdrawal of Wasco County from North
7 Central Public Health District (NCPHD). Prior to the filing of the complaint, Wasco County
8 via its attorney, advised Plaintiff that it intended to take the appropriate steps to reconsider
9 the decision. (Dec. of Bradley V. Timmons). In order to follow the notice requirement of
10 OPML there was a short delay in the actual rescission. *Id.* Despite the reassurance, Plaintiff
11 initiated this action on February 13, 2015 seeking to void the decision to withdraw Wasco
12 County from NCPHD, awarding Plaintiff his attorney fees pursuant to ORS 192.680 and
13 further relief the Court deems equitable and just to assure conformance with OPML. On
14 February 18, 2015, the decision was rescinded. (Public Record). *Id.* Plaintiff now seeks
15 extensive discovery in an attempt to prove a claim that is moot. *Id.* Concurrently with filing
16 this motion, Defendants have filed a Motion to Dismiss and Strike. After the Court rules on
17 that motion, the remaining Defendants intend to file a Motion for Summary Judgment. *Id.*

18 Prior to filing the complaint, Plaintiff received substantial discovery from Wasco County
19 including all correspondence referencing NCPHD, Teri Thalhofer, and all correspondence to
20 and from Defendants to Tyler Stone including phone logs and text messages. The discovery
21 was restricted to November 1, 2014 through December 17, 2014. (Declaration of Bradley V.
22 Timmons). This consisted of approximately 350 pages of documents. It further took
23 approximately 15 (\$3,000.00) hours for Attorney Kristen Campbell to review the records to
24 ensure they were complete, in addition to ensuring that privileged information was not

1 provided. *Id.* The task was substantially greater than attorney Campbell had advised
2 Plaintiff's attorney when providing him with an estimation of fees. *Id.* Finally, no payment
3 for the documents that have been provided has been tendered. *Id.* Plaintiff now seeks all
4 documents or records disclosing communication from any Defendants directed to or copied
5 to any Defendant from 2013 to present. This likely consists of thousands of pages of
6 documents, including strings of identical emails, personal emails, all of which must be
7 reviewed by counsel for privileged information. Further, it is a fishing expedition seeking to
8 embarrass, harass and unduly burden Defendants. Counsel for defendant estimates that it will
9 take at least 100 hours of attorney time for a total cost of \$25,000.00. Additionally, after
10 Defendant advised Plaintiff of its intention to seek this protection order, Defendant attempted
11 to circumvent the Court's ruling in this motion by submitting a public records request for the
12 same documents. *Id.*

13 In the alternative, Defendants request an award of \$25,000.00 from Plaintiff to Defendant
14 prior to requiring Defendants to respond to Plaintiff's discovery which is an anticipation of
15 the reasonable expenses incurred in attending the deposition or otherwise responding to the
16 request for discovery. *Carton v. Shisler*, 146 Or App 513, 516-518, 934 P2d 448 (1997)
17 (allowing award of all expenses, including attorney fees, incurred in attending perpetuation
18 deposition). Defendants will submit an itemized statement of attorneys fees to Plaintiff upon
19 completion and refund any unused fees. Defendants further request the Court award
20 additional fees if the costs exceed \$25,000.00.

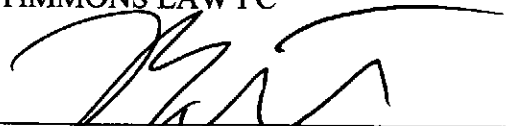
21 In conclusion, Defendants seek an order of the court suspending all discovery until 30
22 days after the motion practice is complete and seek an award of their reasonable attorney fees
23 incurred in filing this motion. In the alternative, Defendants seek an order requiring Plaintiff
24

TIMMONS LAW PC
P. O. Box 2350, The Dalles, OR 97058
Telephone: (541) 296-9900 – Fax (541) 296-9904

1 Defendant \$25,000.00 as their reasonably anticipated expenses, including attorney fees, prior
2 to responding to Plaintiff's discovery requests.

3 Dated this 20 day of March, 2015.

4 TIMMONS LAW PC

5 

6 Brad V. Timmons, OSB No. 903941

7 Staci L. McCarthy, OSB No. 076222

8 Kristen A. Campbell, OSB No. 135998

9 Of Attorneys for Defendants

10 brad@timmonslaw.com

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASCO

JOHN L. WOOD, an individual,

Plaintiff,

v.

WASCO COUNTY, political subdivision
of the State of Oregon; and SCOTT
HEGE, STEVE KRAMER, and ROD
RUNYON, each in their individual and
official capacities as members of the
Board of County Commissioners of
Wasco County, Oregon,

Defendants.

Case No.: CC 15-40

DECLARATION OF BRADLEY V.
TIMMONS

I, Bradley V. Timmons, declare as follows:

1. I am one of the attorney of record for the defendants in the above entitled matter.
2. Attached hereto and incorporated herein as *Exhibit 1* is a copy of correspondence from my office on behalf of Wasco County to Plaintiff's attorney advising him that his concerns regarding the withdrawal of Wasco County from the North Wasco Central Public Health District will addressed at the next Board of Commissioners meeting. The decision was rescinded on February 18, 2015. The delay was a result of the notice requirement of OPML.

TIMMONS LAW PC
P. O. Box 2350, The Dalles, OR 97058
Telephone: (541) 296-9900 – Fax (541) 296-9904

1 3. Attached hereto and incorporated herein as *Exhibit 2* are various discovery requests,
2 including a Request for Production of Documents, Request for Admissions, Notices of
3 Deposition, and Correspondence and proposed subpoenas Duces Tecum to Dwayne Francis
4 and Kathy Schwartz which are currently pending.

5 4. Attached hereto and incorporated herein as *Exhibit 3* is a copy of the Motion for
6 Summary Judgment without declarations or exhibits which Defendants intend to file after the
7 Court rules on this Motion for Protective Order and the Motion to Dismiss and Strike.

8 5. Plaintiff's counsel previously requested records in the form of a public records
9 request seeking some duplicate of the records that it now seeks pursuant to its Request for
10 Production. Wasco County promptly responded. It took attorney Kristen Campbell
11 approximately 15 hours which is the equivalent of \$3,000.00 to comply. Prior to completion
12 Wasco County provided Plaintiff's counsel with an estimate of \$600.00 to 700.00 for fees. No
13 funds have been tendered. If Defendants are required to continue in this matter, I for the
14 attorneys, anticipate that they will incur at least \$25,000.00 in attorneys fees. The hourly rates
15 at Timmons Law PC range from \$200.00 to \$275.00. Plaintiff Noticed three defendants for
16 depositions over a two day period. If these depositions occur over a two day period, this will
17 cost \$4,400. This does not include time that will also be necessary to prepare the defendants
18 which is likely a total of at least 2 hours. In addition, in providing the responsive documents
19 pursuant to the Request for Production, I anticipate it will take in excess of seventy-five hours
20 to respond. Wasco County will also incur substantial expenses in compiling the requested
21 records.

22 / / /

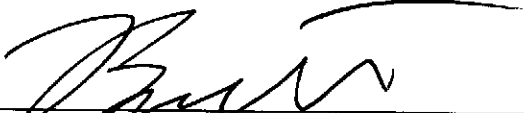
23 / / /

24 / / /

1 6. After notifying Plaintiff of its intention to file this motion, Plaintiff submitted a public
2 records request to Wasco County seeking the same information. A copy of the request is
3 attached hereto and incorporated herein as *Exhibit 4*.

4 I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST
5 OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR
6 USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

7 DATED this 30 day of March, 2015.

8 
9 _____
Bradley V. Timmons

10 *Presented by:*
11 Bradley V. Timmons, OSB No. 903941
12 Staci L. McCarthy, OSB No. 076222
13 Kristen A. Campbell, OSB No. 135998
14 Of Attorneys for Defendants

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TIMMONS LAW PC
P. O. Box 2350, The Dalles, OR 97058
Telephone: (541) 296-9900 – Fax (541) 296-9904

TIMMONS LAW PC

PO Box 2350
The Dalles, Oregon 97058

541.296.9900
fax 541.296.9904
timmons law.com

Bradley V. Timmons*
Antoine J. Tissot*
Karen A. Fell
Stael L. McCarthy**
*also admitted in Washington
**also admitted in California

February 11, 2015

FOR SETTLEMENT PURPOSES ONLY

Thomas C. Peachey
PO Box 2190
The Dalles, OR 97058

Via email: tpeachey@thedalles-law.com
and 1st Class Mail

Re: February 9, 2015 Letter

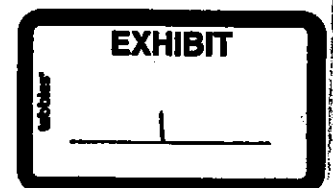
Dear Tom:

Thank you for identifying your client's concerns in your February 9, 2015 letter. We have made each of your three recent threats of litigation a top priority. In summary, we unequivocally dispute each of your claims. Nevertheless, we are committed to helping the Board of Commissioners achieve its goal to be able to use its time and resources in an efficient and productive manner and to not be engaged in extremely costly and time consuming discovery and litigation to defend claims for exorbitant money damages. Similarly, we would certainly advise the Board that mediation is a beneficial step prior to litigation.

Accordingly, and in response to the Commissioners' commitment to transparency and public concern, the Board will re-notice its withdrawal from the North Central Public Health District for the next Board of Commissioner's meeting. You and your client are, of course, welcome to attend and participate at that meeting. Also, we intend to meet with the Board to recommend tolling the time period within which your client can challenge the action to withdraw from the NCPHD. However, in order to notice this meeting in compliance with the Open Meetings Act, that meeting cannot occur until Friday morning.

I invite you to my office later this afternoon to discuss this course of action and to identify the stakeholders who might be included in a mediation.

Physical Address
Crates Building
3591 Klindt Drive, Suite 220
The Dalles, Oregon 97058

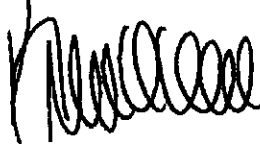


Thomas C. Peachey
February 11, 2015
Page 2 of 2

I look forward to hearing from you and working toward a prompt and thorough resolution of these issues. The statements made in this letter are made for the purpose of attempting to compromise a disputed claim, and are intended to be protected by OEC 408.

Sincerely,

TIMMONS LAW PC

A handwritten signature in black ink, appearing to read 'Kristen A. Campbell', written in a cursive style.

Kristen A. Campbell
kristen@timmonsllaw.com

cc: Tyler Stone

P **THOMAS C. PEACHEY, P.C.**
ATTORNEYS AT LAW

THOMAS C. PEACHEY
ANDREW J. MYERS
PATRICIA KUEHNL - LEGAL ASSISTANT
PAMELA M. RIISE - LEGAL ASSISTANT
VERONICA WILCOX - LEGAL ASSISTANT

401 EAST 3RD STREET, SUITE 105
P.O. BOX 2190
THE DALLES, OR 97058
541-296-6375
FAX 1-877-625-4324
WWW.THEDALLES-LAW.COM

March 19, 2015

VIA FACSIMILE: 541-296-9904
and Regular Mail

Bradley V. Timmons
Timmons Law PC
P.O. Box 2350
The Dalles, OR 97058

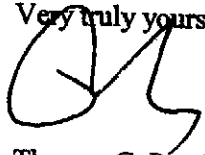
Re: John L. Wood v. Wasco County, et al.
Wasco County Circuit Court Case No. CC15-00040
Public Records Request Pursuant to ORS 192.440

Dear Brad:

Enclosed is a true copy of the *Notice of Service of Subpoenas* being served upon you pursuant to ORCP 55 D(1) with regard to subpoenas duces tecum I intend to serve upon Kathy Schwartz and Dwayne Francis.

I look forward to your response.

Very truly yours,



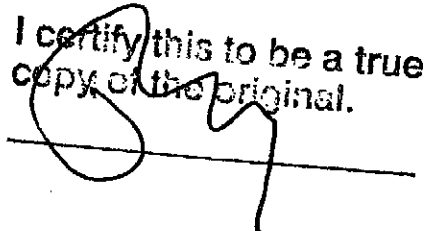
Thomas C. Peachey
TCP/pr

Enclosures

cc: client (via email only)



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I certify this to be a true
copy of the original.


IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASCO

JOHN L. WOOD, an individual,

Plaintiff,

v.

WASCO COUNTY, a public body
corporate and political subdivision of the
State of Oregon; and SCOTT HEGE,
STEVE KRAMER, and ROD RUNYON,
each in their individual and official
capacities as members of the Board of
County Commissioners of Wasco County,
Oregon,

Defendants.

No. CC15-00040

NOTICE OF SERVICE OF
SUBPOENAS DUCES
TECUM

TO: All Defendants herein, by and through their attorney of record, Bradley V. Timmons, Timmons Law PC, P.O. Box 2350, The Dalles, Oregon 97058.

Pursuant to ORCP 55 D (1), please take notice that two subpoenas duces tecum, copies of which are attached hereto as "Exhibit 1" and "Exhibit 2," will be served on the following individuals on or after **Monday, March 30, 2015**:

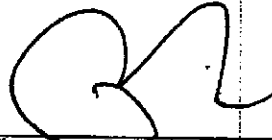
1. Dwayne Francis; and
2. Kathy Schwartz.

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DATED this 19 day of March, 2015.

PEACHEY & MYERS, P.C.



Thomas C. Peachey, OSB No. 783319
Attorney for Plaintiff
401 East 3rd Street, Suite 105/P.O. Box 2190
The Dalles, Oregon 97058
Telephone: (541) 296-6375
Facsimile: (877) 625-4324
tpeachey@thedalles-law.com

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing **Notice of Service of Subpoenas Duce Tecum** on the date indicated below by first faxing it to **Bradley V. Timmons, attorney for Defendants, at 541-296-9904.**

I further certify that said copy was also placed in a sealed, postage prepaid, envelope and deposited in the US Mail at The Dalles, Oregon, addressed to said attorney at the address listed below:

Bradley V. Timmons
Timmons Law PC
P.O. Box 2350
The Dalles, OR 97058

A confirmation of receipt of the faxed documents is attached to the Court copy.

Dated this 19 day of March, 2015.



Thomas C. Peachey, OSB no. 783319
Attorney for Plaintiff

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASCO

JOHN L. WOOD, an individual,
Plaintiff,

No. CC15-00040

v.

CIVIL SUBPOENA DUCES
TECUM - DWAYNE
FRANCIS

WASCO COUNTY, a public body
corporate and political subdivision of the
State of Oregon; and SCOTT HEGE,
STEVE KRAMER, and ROD RUNYON,
each in their individual and official
capacities as members of the Board of
County Commissioners of Wasco County,
Oregon,
Defendants.

TO: DWAYNE FRANCIS, MID-COLUMBIA MEDICAL CENTER, 1700 EAST 19TH
STREET, THE DALLES, OREGON 97058.

You are hereby commanded to produce the following materials in your custody
or control to the law office of Peachey & Myers, P.C., 401 E 3rd Street, Suite 105, P.O.
Box 2190, The Dalles, Oregon 97058 no later than April __, 2015. You are required
by ORCP 55(f)(3) to certify that any and all copies provided are true copies of the items
requested below. If any of the records sought are not produced, please inform us of
that fact and the reason for withholding the requested records.

///

DEFINITIONS

1
2 1. The term "*documents*," as used in this request, is a comprehensive term,
3 and shall be construed in its broadest sense, referring to all manner of information that
4 relates to, or arguably pertains to, any request within this subpoena. It includes any
5 written, printed, typed, photostatic, photographed, recorded, electronically stored
6 version, or other graphic material of any kind or nature, and all mechanical, electronic,
7 or sound recordings in your possession, custody or control, or known by you to exist.
8 "Document" includes, but is not limited to, all writings including correspondence,
9 memoranda, files, records, interoffice communications, computer or electronically stored
10 data or information, electronic mail, voice mail, phone texts, "tweets" or other forms of
11 social media posts, notes, calendars or scheduling diaries, whether paper or electronic,
12 journals, contract documents, calculations, estimates, vouchers, statements, invoices,
13 purchase orders, summaries, logs, schedules, ledgers, handwritten or typed notes,
14 microfilm, microfiche, data, telegrams, notes of telephone conversations and notes of
15 any oral communications, graphs, charts, drawings, and any other electronic or
16 magnetic recordings, including audiotapes and/or videotapes, CDs, DVDs, or cassettes.

17 2. The term "correspondence" shall include any letter, telegram, telephone
18 memorandum, intra-office or intra-corporate memorandum, e-mail, text message,
19 instant message, and any other writing or documents reflecting or constituting any sort
20 of written communication, whether paper or electronic.

21 3. A reference to a corporate entity shall include its officers, directors,
22 employees, agents, or other persons acting in concert with or on its behalf.

23 4. A reference to "**Wasco County Commissioners**" shall refer to any or
24 all of the following persons: **Scott Hege, Rod Runyon, and Steve Kramer.**

25 ///

26 ///

DOCUMENTS TO BE PRODUCED

1
2 1. All correspondence, documents, and recordings including, but not limited
3 to, copies of all communications you have, or anyone on your behalf has had, regarding
4 the North Central Public Health District (hereinafter "NCPHD"), with any of the Wasco
5 County Commissioners and/or Tyler Stone, either individually, or in a group, either to
6 any or all of them, or from any or all of them, to include, but not be limited to, email, text,
7 written communication, recorded messages, or other forms of public or private media
8 from January 1, 2014, to the present.

9 2. All documents that confirm meetings between you and any or all of the
10 Wasco County Commissioners and/or Tyler Stone, or between you and any third party
11 regarding business being conducted or considered by said commissioners and/or Tyler
12 Stone, to include, but not be limited to, calendars, appointment books, notes or memos
13 from said meetings, whether paper or electronic, from January 1, 2014, to the present.

14 DATED this ____ day of March ____, 2015.

15 Issued By: PEACHEY & MYERS, P.C.

17
18 Thomas C. Peachey, OSB No. 783319
19 Of Attorneys for Plaintiff
20 401 East Third Street, Ste. 105
21 P.O. Box 2190
22 The Dalles, Oregon 97058
23 541-296-6375
24 Facsimile: 877-625-4324
25 tpeachey@thedalles-law.com

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CERTIFICATE OF SERVICE

I hereby certify that I served a correct and true copy of the aforementioned Civil Subpoena Duces Tecum to Dwayne Francis upon Defendants' attorney, Bradley V. Timmons, by mailing to him, via first class mail with postage prepaid, deposited in the US Mail at The Dalles, Oregon, said document in a sealed envelope, addressed as follows:

Bradley V. Timmons
Timmons Law PC
P.O. Box 2350
The Dalles, OR 97058

on March __, 2015.

I further certify that I served a correct and true copy of the aforementioned Civil Subpoena Duces Tecum to Dwayne Francis upon Dwayne Francis by serving him at the address given below, via first class mail and via certified mail with return receipt, postage prepaid, deposited in the US Mail at The Dalles, Oregon, said document and a witness fee check made out to him in the amount of \$30.00 in a sealed envelope, addressed as follows:

Dwayne Francis
Mid-Columbia Medical Center
1700 East 19th Street
The Dalles, Oregon 97058

DATED this __ day of March, 2015.

Thomas C. Peachey, OSB No. 783319
Of Attorneys for Plaintiff

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASCO

JOHN L. WOOD, an individual,

Plaintiff,

v.

WASCO COUNTY, a public body
corporate and political subdivision of the
State of Oregon; and SCOTT HEGE,
STEVE KRAMER, and ROD RUNYON,
each in their individual and official
capacities as members of the Board of
County Commissioners of Wasco County,
Oregon,

Defendants.

No. CC15-00040

CIVIL SUBPOENA DUCES
TECUM - KATHY
SCHWARTZ

TO: KATHY SCHWARTZ, _____, THE DALLES,
OREGON 97058

You are hereby commanded to produce the following materials in your custody
or control to the law office of Peachey & Myers, P.C., 401 E 3rd Street, Suite 105, P.O.
Box 2190, The Dalles, Oregon 97058 no later than April ____, 2015. You are required
by ORCP 55(f)(3) to certify that any and all copies provided are true copies of the items
requested below. If any of the records sought are not produced, please inform us of
that fact and the reason for withholding the requested records.

///

1 DEFINITIONS

2 1. The term "documents," as used in this request, is a comprehensive term,
3 and shall be construed in its broadest sense, referring to all manner of information that
4 relates to, or arguably pertains to, any request within this subpoena. It includes any
5 written, printed, typed, photostatic, photographed, recorded, electronically stored
6 version, or other graphic material of any kind or nature, and all mechanical, electronic,
7 or sound recordings in your possession, custody or control, or known by you to exist.
8 "Document" includes, but is not limited to, all writings including correspondence,
9 memoranda, files, records, interoffice communications, computer or electronically stored
10 data or information, electronic mail, voice mail, phone texts, "tweets," notes, calendars
11 or scheduling diaries, whether paper or electronic, journals, contract documents,
12 calculations, estimates, vouchers, statements, invoices, purchase orders, summaries,
13 logs, schedules, ledgers, handwritten or typed notes, microfilm, microfiche, data,
14 telegrams, notes of telephone conversations and notes of any oral communications,
15 graphs, charts, drawings, and any other electronic or magnetic recordings, including
16 audiotapes and/or videotapes, CDs, DVDs, or cassettes.

17 2. The term "correspondence" shall include any letter, telegram, telephone
18 memorandum, intra-office or intra-corporate memorandum, e-mail, text message,
19 instant message, and any other writing or documents reflecting or constituting any sort
20 of written communication, whether by paper or electronic.

21 3. A reference to a corporate entity shall include its officers, directors,
22 employees, agents, or other persons acting in concert with or on its behalf.

23 4. A reference to "Wasco County Commissioners" shall refer to any or
24 all of the following persons: Scott Hege, Rod Runyon, and Steve Kramer.

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DOCUMENTS TO BE PRODUCED

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1. All correspondence, documents, and recordings including, but not limited to, copies of all communications you have, or anyone on your behalf has had, regarding the North Central Public Health District (hereinafter "NCPHD"), with any of the Wasco County Commissioners and/or Tyler Stone, either individually, or in a group, either to any or all of them, or from any or all of them, to include, but not be limited to, email, text, written communication, recorded messages, or other forms of public or private media from January 1, 2014, to the present.

2. All documents that confirm meetings between you and any or all of the Wasco County Commissioners and/or Tyler Stone, or between you and any third party regarding business being conducted or considered by said commissioners and/or Tyler Stone, to include, but not be limited to, calendars, appointment books, notes or memos from said meetings, whether paper or electronic, from January 1, 2014, to the present.

DATED this ____ day of March ____, 2015.

Issued By: PEACHEY & MYERS, P.C.

Thomas C. Peachey, OSB No. 783319
Of Attorneys for Plaintiff
401 East Third Street, Ste. 105
P.O. Box 2190
The Dalles, Oregon 97058
541-296-6375
Facsimile: 877-625-4324
tpeachey@thedalles-com

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SATISFACTORY ASSURANCES

Plaintiff's attorneys gave advance notice to Defendants' attorney with regard to this subpoena and Defendants' attorney *has/has not* objected in the time allowed.

I hereby certify that the foregoing is a complete and exact copy of the original civil subpoena duces tecum in the above cause.

Thomas C. Peachey, OSB No. 783319

Witness Fee: \$30.00

NAME, ADDRESS AND TELEPHONE OF ATTORNEY
ON WHOSE BEHALF THIS SUBPOENA IS ISSUED:

Thomas C. Peachey, OSB No. 783319
Attorney for Plaintiff
Thomas C. Peachey, P.C.
401 East 3rd Street, Suite 105
P.O. Box 2190
The Dalles, Oregon 97058
Telephone: (541) 296-6375
Facsimile: (877) 625-4324
tpeachey@thedalles-law.com

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CERTIFICATE OF SERVICE

I hereby certify that I served a correct and true copy of the aforementioned Civil Subpoena Duces Tecum to Kathy Schwartz upon Defendants' attorney, Bradley V. Timmons, by mailing to him, via first class mail with postage prepaid, deposited in the US Mail at The Dalles, Oregon, said document in a sealed envelope, addressed as follows:

Bradley V. Timmons
Timmons Law PC
P.O. Box 2350
The Dalles, OR 97058

on March __, 2015.

I further certify that I served a correct and true copy of the aforementioned Civil Subpoena Duces Tecum to Kathy Schwartz upon Kathy Schwartz by serving her at the address given below, via first class mail and via certified mail with return receipt, postage prepaid, deposited in the US Mail at The Dalles, Oregon, said document and a witness fee check made out to her in the amount of \$30.00 in a sealed envelope, addressed as follows:

Kathy Schwartz

The Dalles, Oregon 97058

DATED this __ day of March, 2015.

Thomas C. Peachey, OSB No. 783319
Of Attorneys for Plaintiff

I certify this to be a true copy of the original.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASCO

JOHN L. WOOD, an individual,

Plaintiff,

No. CC15-00040

v.

PLAINTIFF'S FIRST REQUEST
FOR PRODUCTION OF
DOCUMENTS

WASCO COUNTY, a public body
corporate and political subdivision of the
State of Oregon; and SCOTT HEGE,
STEVE KRAMER, and ROD RUNYON,
each in their individual and official
capacities as members of the Board of
County Commissioners of Wasco County,
Oregon,

Defendants.

TO: WASCO COUNTY, SCOTT HEGE, STEVE KRAMER, AND ROD RUNYON, by
and through their attorney, Bradley V. Timmons, Timmons Law, P.C., P.O. Box 12647,
Salem, Oregon 97309.

Pursuant to ORCP 36 and 43, Defendant requests that you produce and permit
Defendant to inspect and copy the following documents within your custody or control.
Said documentation should be sent or delivered to the law office of Peachey & Myers,
P.C., 401 East Third Street, Suite 105, P.O. Box 2190, The Dalles, OR 97058, *no later*
than by Monday, April 6, 2015, at 5:00 p.m.

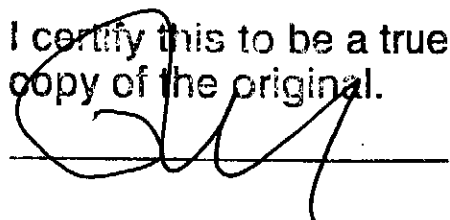
INSTRUCTIONS AND DEFINITIONS

1. The term "*documents*," as used in this request, is a comprehensive term,
and shall be construed in its broadest sense, referring to all manner of information that
relates to, or arguably pertains to, any issue raised by any person in relation to this

1 case. It includes any written, printed, typed, photostatic, photographed, recorded,
2 electronically stored version, or other graphic material of any kind or nature, and all
3 mechanical, electronic, or sound recordings in your possession, custody, or control, or
4 known by you to exist. "Document" includes, but is not limited to, all writings including
5 correspondence, memoranda, files, records, interoffice communications, computer or
6 electronically stored data or information, electronic mail, voice mail, notes, diaries,
7 journals, contract documents, advertisements, publications, books, pamphlets,
8 periodicals, catalogs, calculations, estimates, vouchers, statements, invoices, purchase
9 orders, summaries, logs, schedules, ledgers, handwritten or typed notes, microfilm,
10 microfiche, data, drawings, illustrations, working papers, minutes of meeting reports,
11 studies, computer disks or data and information stored on computer or any type of
12 backup media, tape or other recordings, photographs, negatives, slides, dictation belts,
13 voice tapes, telegrams, notes of telephone conversations, and notes of any oral
14 communications, graphs, charts, drawings, and any other electronic or magnetic
15 recordings, including audiotapes and/or videotapes, CD's, DVD's, or cassettes.
16 "Document" includes all associated files, binders, or folder tabs, all correspondence
17 transmitting such documents or explaining or commenting on its contents, and all
18 originals, reproductions, drafts, and nonidentical copies made by whatever means.

19 2. The words *record*, *records*, *document*, or *documents* are meant to include
20 all items within the scope of Rule 43 of the Oregon Rules of Civil Procedure and, without
21 limiting its generality, contracts, agreements, correspondence, letters, telegrams,
22 reports, records, schedules, diaries, calendars, appointment books, invoices, purchase
23 orders, computer inputs or outputs, charts, diagrams, notes, estimates, summaries,
24 appraisals, inventories, and memoranda regarding conferences, conversations or
25 telephone conversations, any and all taped, recorded, written, printed, or typed matters
26 of any kind or description, unless otherwise specified herein.

I certify this to be a true copy of the original.



IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASCO

JOHN L. WOOD, an individual,
Plaintiff,

No. CC15-00040

v.

PLAINTIFF'S FIRST REQUEST
FOR ADMISSIONS TO
DEFENDANT ROD RUNYON

WASCO COUNTY, a public body
corporate and political subdivision of the
State of Oregon; and SCOTT HEGE,
STEVE KRAMER, and ROD RUNYON,
each in their individual and official
capacities as members of the Board of
County Commissioners of Wasco County,
Oregon,

Defendants.

**FAILURE TO SERVE A WRITTEN ANSWER OR OBJECTION WITHIN THE
TIME ALLOWED BY ORCP 45 B WILL RESULT IN ADMISSION OF THE
FOLLOWING REQUESTS.**

Pursuant to ORCP 45 A, Plaintiff John L. Wood requests Defendant Rod Runyon,
by no later than **Monday, April 6, 2015, at 5:00 p.m.**, admit that each of the following
statements is true, for the purposes of this action only, and subject to all pertinent
objections to admissibility that may be interposed at trial. Please note that Plaintiff
intends to pursue his right to recover all reasonable expenses, including attorney fees,
incurred in providing any fact not admitted herein, pursuant to ORCP 46 C.

REQUESTS

REQUEST NO. 1: Admit that between the dates of January 1, 2014, and
December 17, 2014, you communicated with Commissioner Steve Kramer outside of

1 a public meeting, regarding issues relating to the North Central Public Health District.

2 RESPONSE:

3
4 REQUEST NO. 2: Admit that between the dates of January 1, 2014, and
5 December 17, 2014, you communicated with Commissioner Scott Hege, outside of a
6 public meeting, regarding issues relating to the North Central Public Health District.

7 RESPONSE:

8
9 REQUEST NO. 3: Admit that you anticipated, more than 24 hours prior to
10 Wasco County's December 17, 2014, public meeting, that the issue of Wasco County
11 exiting the North Central Public Health District would be a matter of consideration at
12 Wasco County's December 17, 2014, public meeting.

13 RESPONSE:

14
15 DATED this 3 day of March, 2015.

16
17 PEACHEY & MYERS, P.C.


18
19 
20 Andrew J. Myers, OSB NO. 094545
21 Of Attorneys for Plaintiff
22 401 East 3rd Street, Suite 105
23 P.O. Box 2190
24 The Dalles, Oregon 97058
25 Telephone: (541) 296-6375
26 Facsimile: (877) 625-4324
tpeachey@thedalles-law.com

1 **CERTIFICATE OF SERVICE**

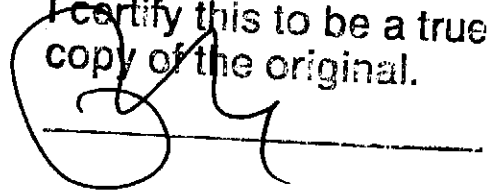
2 I hereby certify that I served a true and correct copy of the *Plaintiff's First*
3 *Request for Admissions to Defendant Rod Runyon* on March 3, 2015, by mailing
4 said document to him via First Class regular mail with postage prepaid, deposited in the
5 US Mail at The Dalles, Oregon, and that said copy mailed was placed in a sealed
6 envelope and addressed to the attorney for Defendants, at the address listed below:

7 Bradley V. Timmons
8 Timmons Law PC
9 P.O. Box 2350
The Dalles, OR 97058

10 PEACHEY & MYERS, PC

11
12 
13 _____
14 Andrew J. Myers, OSB NO. 094545
15 Of Attorneys for Plaintiff
16 401 East 3rd Street, Suite 105
17 P.O. Box 2190
18 The Dalles, Oregon 97058
19 Telephone: (541) 296-6375
20 Facsimile: (877) 625-4324
21 tpeachey@thedalles-law.com

I certify this to be a true copy of the original.



IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASCO

JOHN L. WOOD, an individual,
Plaintiff,

No. CC15-00040

v.

PLAINTIFF'S FIRST REQUEST
FOR ADMISSIONS TO
DEFENDANT STEVE KRAMER

WASCO COUNTY, a public body
corporate and political subdivision of the
State of Oregon; and SCOTT HEGE,
STEVE KRAMER, and ROD RUNYON,
each in their individual and official
capacities as members of the Board of
County Commissioners of Wasco County,
Oregon,

Defendants.

**FAILURE TO SERVE A WRITTEN ANSWER OR OBJECTION WITHIN THE
TIME ALLOWED BY ORCP 45 B WILL RESULT IN ADMISSION OF THE
FOLLOWING REQUESTS.**

Pursuant to ORCP 45 A, Plaintiff John L. Wood requests Defendant Steve Kramer, by no later than **Monday, April 6, 2015, at 5:00 p.m.**, admit that each of the following statements is true, for the purposes of this action only, and subject to all pertinent objections to admissibility that may be interposed at trial. Please note that Plaintiff intends to pursue his right to recover all reasonable expenses, including attorney fees, incurred in providing any fact not admitted herein, pursuant to ORCP 46 C.

REQUESTS

REQUEST NO. 1: Admit that between the dates of January 1, 2014, and December 17, 2014, you communicated with Commissioner Scott Hege outside of a

1 public meeting, regarding issues relating to Wasco County exiting the North Central
2 Public Health District.

3 RESPONSE:
4

5 REQUEST NO. 2: Admit that between the dates of January 1, 2014, and
6 December 17, 2014, you communicated with Commissioner Rod Runyon outside of a
7 public meeting, regarding issues relating to Wasco County exiting the North Central
8 Public Health District.

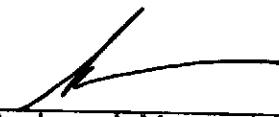
9 RESPONSE:
10

11 REQUEST NO. 3: Admit that you anticipated, more than 24 hours prior to
12 Wasco County's December 17, 2014, public meeting, that the issue of Wasco County
13 exiting the North Central Public Health District would be a matter of consideration at
14 Wasco County's December 17, 2014, public meeting.

15 RESPONSE:
16

17 DATED this 3 day of March, 2015.
18

19 PEACHEY & MYERS, P.C.
20

21 
22 _____
23 Andrew J. Myers, OSB NO. 094545
24 Of Attorneys for Plaintiff
25 401 East 3rd Street, Suite 105
26 P.O. Box 2190
The Dalles, Oregon 97058
Telephone: (541) 296-6375
Facsimile: (877) 625-4324
tpeachey@thedalles-law.com

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the *Plaintiff's First Request for Admissions to Defendant Steve Kramer* on March 3, 2015, by mailing said document to him via First Class regular mail with postage prepaid, deposited in the US Mail at The Dalles, Oregon, and that said copy mailed was placed in a sealed envelope and addressed to the attorney for Defendants at the address listed below:

Bradley V. Timmons
Timmons Law PC
P.O. Box 2350
The Dalles, OR 97058

PEACHEY & MYERS, PC



Andrew J. Myers, OSB NO. 094545
Of Attorneys for Plaintiff
401 East 3rd Street, Suite 105
P.O. Box 2190
The Dalles, Oregon 97058
Telephone: (541) 296-6375
Facsimile: (877) 625-4324
tpeachey@thedalles-law.com

I certify this to be a true copy of the original.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASCO

JOHN L. WOOD, an individual,

Plaintiff,

No. CC15-00040

v.

PLAINTIFF'S FIRST REQUEST
FOR ADMISSIONS TO
DEFENDANT SCOTT HEGE

WASCO COUNTY, a public body
corporate and political subdivision of the
State of Oregon; and SCOTT HEGE,
STEVE KRAMER, and ROD RUNYON,
each in their individual and official
capacities as members of the Board of
County Commissioners of Wasco County,
Oregon,

Defendants.

**FAILURE TO SERVE A WRITTEN ANSWER OR OBJECTION WITHIN THE
TIME ALLOWED BY ORCP 45 B WILL RESULT IN ADMISSION OF THE
FOLLOWING REQUESTS.**

Pursuant to ORCP 45 A, Plaintiff John L. Wood requests Defendant Scott Hege, by no later than **Monday, April 6, 2015, at 5:00 p.m.**, admit that each of the following statements is true, for the purposes of this action only, and subject to all pertinent objections to admissibility that may be interposed at trial. Please note that Plaintiff intends to pursue his right to recover all reasonable expenses, including attorney fees, incurred in providing any fact not admitted herein, pursuant to ORCP 46 C.

REQUESTS

REQUEST NO. 1: Admit that between the dates of January 1, 2014, and December 17, 2014, you communicated with Commissioner Steve Kramer outside of

1 a public meeting, regarding issues relating to Wasco County exiting the North Central
2 Public Health District.

3 RESPONSE:
4

5 REQUEST NO. 2: Admit that between the dates of January 1, 2014, and
6 December 17, 2014, you communicated with Commissioner Rod Runyon outside of a
7 public meeting, regarding issues relating to Wasco County exiting the North Central
8 Public Health District.

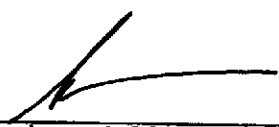
9 RESPONSE:
10

11 REQUEST NO. 3: Admit that you anticipated, more than 24 hours prior to
12 Wasco County's December 17, 2014, public meeting, that the issue of Wasco County
13 exiting the North Central Public Health District would be a matter of consideration at
14 Wasco County's December 17, 2014, public meeting.

15 RESPONSE:
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17 DATED this 3 day of March, 2015.
18

19 PEACHEY & MYERS, P.C.
20

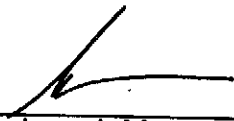
21 
22 _____
23 Andrew J. Myers, OSB NO. 094545
24 Of Attorneys for Plaintiff
25 401 East 3rd Street, Suite 105
26 P.O. Box 2190
The Dalles, Oregon 97058
Telephone: (541) 296-6375
Facsimile: (877) 625-4324
tpeachey@thedalles-law.com

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the *Plaintiff's First Request for Admissions to Defendant Scott Hege* on March 3, 2015, by mailing said document to him via First Class regular mail with postage prepaid, deposited in the US Mail at The Dalles, Oregon, and that said copy mailed was placed in a sealed envelope and addressed to the attorney for Defendants at the address listed below:

Bradley V. Timmons
Timmons Law PC
P.O. Box 2350
The Dalles, OR 97058

PEACHEY & MYERS, PC



Andrew J. Myers, OSB NO. 094545
Of Attorneys for Plaintiff
401 East 3rd Street, Suite 105
P.O. Box 2190
The Dalles, Oregon 97058
Telephone: (541) 296-6375
Facsimile: (877) 625-4324
tpeachey@thedalles-law.com

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I certify this to be a true copy of the original.

Pamela M. Reiss

NOTARY PUBLIC

MY COMMISSION EXPIRES 6/29/2016

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASCO

JOHN L. WOOD, an individual,

Plaintiff,

v.

WASCO COUNTY, a public body corporate and political subdivision of the State of Oregon; and SCOTT HEGE, STEVE KRAMER, and ROD RUNYON, each in their individual and official capacities as members of the Board of County Commissioners of Wasco County, Oregon,

Defendants.

No. CC15-00040

NOTICE OF DEPOSITION -
ROD RUNYON

TO: ROD RUNYON, by and through his attorney of record, Bradley V. Timmons, Timmons Law PC, P.O. Box 2350, The Dalles, Oregon 97058.

PLEASE TAKE NOTICE that pursuant to ORCP 39, Plaintiff John L. Wood will take the deposition of Defendant Rod Runyon on oral examination before a Notary Public or some other official authorized by law to administer oaths on **Tuesday, March 31, 2015**, commencing at **10:00 a.m.**, at the offices of Peachey and Myers, P.C., 401

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1 East 3rd Street, Suite 105, The Dalles, Oregon 97058. The oral examination will continue
2 from day to day until completed.

3 DATED this 9 day of March, 2015.

4 PEACHEY & MYERS, P.C.

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7 _____
8 Thomas C. Peachey, OSB No. 783319
9 Attorney for Plaintiff
10 401 East 3rd Street, Suite 105/P.O. Box 2190
11 The Dalles, Oregon 97058
12 Telephone: (541) 296-6375
13 Facsimile: (877) 625-4324
14 info@thedalles-law.com

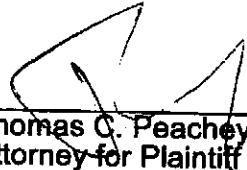
15 **CERTIFICATE OF SERVICE**

16 I hereby certify that I served a true and correct copy of the foregoing **Notice of**
17 **Deposition-Rod Runyon** on the date indicated below by mail with postage prepaid,
18 deposited in the US Mail at The Dalles, Oregon.

19 I further certify that said copy was placed in a sealed envelope delivered as
20 indicated above and addressed to said attorney at the address listed below:

21 **Bradley V. Timmons**
22 **Timmons Law PC**
23 **P.O. Box 2350**
24 **The Dalles, OR 97058**

25 Dated this 9 day of March, 2015.

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Thomas C. Peachey, OSB no. 783319
Attorney for Plaintiff

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I certify this to be a true copy of the original.

Pamela M. Riise

NOTARY PUBLIC

MY COMMISSION EXPIRES 6/24/2016

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASCO

JOHN L. WOOD, an individual,

Plaintiff,

v.

WASCO COUNTY, a public body corporate and political subdivision of the State of Oregon; and SCOTT HEGE, STEVE KRAMER, and ROD RUNYON, each in their individual and official capacities as members of the Board of County Commissioners of Wasco County, Oregon,

Defendants.

No. CC15-00040

NOTICE OF DEPOSITION -
SCOTT HEGE

TO: SCOTT HEGE, by and through his attorney of record, Bradley V. Timmons, Timmons Law PC, P.O. Box 2350, The Dalles, Oregon 97058.

PLEASE TAKE NOTICE that pursuant to ORCP 39, Plaintiff John L. Wood will take the deposition of Defendant Scott Hege on oral examination before a Notary Public or some other official authorized by law to administer oaths on **Tuesday, March 31, 2015**, commencing at **approximately 1:00 p.m.**, or whenever the deposition of Defendant Rod Runyon has been completed; at the offices of Peachey and Myers, P.C.,

///

1 401 East 3rd Street, Suite 105, The Dalles, Oregon 97058. The oral examination will
2 continue from day to day until completed.

3 DATED this 9 day of March, 2015.

4 PEACHEY & MYERS, P.C.

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7 _____
8 Thomas C. Peachey, OSB No. 783319
9 Attorney for Plaintiff
10 401 East 3rd Street, Suite 105/P.O. Box 2190
11 The Dalles, Oregon 97058
12 Telephone: (541) 296-6375
13 Facsimile: (877) 625-4324
14 info@thedalles-law.com

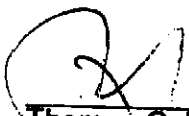
12 **CERTIFICATE OF SERVICE**

13 I hereby certify that I served a true and correct copy of the foregoing **Notice of**
14 **Deposition-Scott Hege** on the date indicated below by mail with postage prepaid,
15 deposited in the US Mail at The Dalles, Oregon.

16 I further certify that said copy was placed in a sealed envelope delivered as
17 indicated above and addressed to said attorney at the address listed below:

18 Bradley V. Timmons
19 Timmons Law PC
20 P.O. Box 2350
21 The Dalles, OR 97058

22 Dated this 9 day of March, 2015.

23
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25 _____
26 Thomas C. Peachey, OSB no. 783319
Attorney for Plaintiff

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I certify this to be a true copy of the original.

Pamela M. Riise

NOTARY PUBLIC

MY COMMISSION EXPIRES 6/28/2016

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASCO

JOHN L. WOOD, an individual,

Plaintiff,

v.

WASCO COUNTY, a public body corporate and political subdivision of the State of Oregon; and SCOTT HEGE, STEVE KRAMER, and ROD RUNYON, each in their individual and official capacities as members of the Board of County Commissioners of Wasco County, Oregon,

Defendants.

No. CC15-00040

NOTICE OF DEPOSITION - TYLER STONE

TO: TYLER STONE, by and through his attorney of record, Bradley V. Timmons, Timmons Law PC, P.O. Box 2350, The Dalles, Oregon 97058.

PLEASE TAKE NOTICE that pursuant to ORCP 39, Plaintiff John L. Wood will take the deposition of Defendant Tyler Stone on oral examination before a Notary Public or some other official authorized by law to administer oaths on **Wednesday, April 1, 2015**, commencing at **10:00 a.m.**, at the offices of Peachey and Myers, P.C., 401 East

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1 3rd Street, Suite 105, The Dalles, Oregon 97058. The oral examination will continue from
2 day to day until completed.

3
4 DATED this 9 day of March, 2015.

5 PEACHEY & MYERS, P.C.

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8 _____
9 Thomas C. Peachey, OSB No. 783319
10 Attorney for Plaintiff
11 401 East 3rd Street, Suite 105/P.O. Box 2190
12 The Dalles, Oregon 97058
13 Telephone: (541) 296-6375
14 Facsimile: (877) 625-4324
15 info@thedalles-law.com

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CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing **Notice of Deposition-Tyler Stone** on the date indicated below by mail with postage prepaid, deposited in the US Mail at The Dalles, Oregon.

I further certify that said copy was placed in a sealed envelope delivered as indicated above and addressed to said attorney at the address listed below:

Bradley V. Timmons
Timmons Law PC
P.O. Box 2350
The Dalles, OR 97058

Dated this 9 day of March, 2015.



Thomas C. Peachey, OSB no. 783319
Attorney for Plaintiff

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I certify this to be a true copy of the original.
Pamela M. Reiss
NOTARY PUBLIC
MY COMMISSION EXPIRES 6/29/2016

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASCO

JOHN L. WOOD, an individual,

Plaintiff,

v.

WASCO COUNTY, a public body corporate and political subdivision of the State of Oregon; and SCOTT HEGE, STEVE KRAMER, and ROD RUNYON, each in their individual and official capacities as members of the Board of County Commissioners of Wasco County, Oregon,

Defendants.

No. CC15-00040
NOTICE OF DEPOSITION -
STEVE KRAMER

TO: STEVE KRAMER, by and through his attorney of record, Bradley V. Timmons, Timmons Law PC, P.O. Box 2350, The Dalles, Oregon 97058.

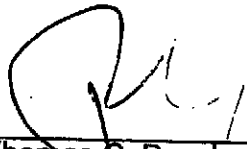
PLEASE TAKE NOTICE that pursuant to ORCP 39, Plaintiff John L. Wood will take the deposition of Defendant TYLER STONE on oral examination before a Notary Public or some other official authorized by law to administer oaths on **Wednesday, April 1, 2015**, commencing at **approximately 1:00 p.m.**, or whenever the deposition of Defendant Tyler Stone has been completed at the offices of Peachey and Myers,

///
///

1 P.C., 401 East 3rd Street, Suite 105, The Dalles, Oregon 97058. The oral examination
2 will continue from day to day until completed.

3
4 DATED this 9 day of March, 2015.

5 PEACHEY & MYERS, P.C.

6
7
8 
9 Thomas C. Peachey, OSB No. 783319
10 Attorney for Plaintiff
11 401 East 3rd Street, Suite 105/P.O. Box 2190
12 The Dalles, Oregon 97058
13 Telephone: (541) 296-6375
14 Facsimile: (877) 625-4324
15 info@thedalles-law.com

13 **CERTIFICATE OF SERVICE**

14 I hereby certify that I served a true and correct copy of the foregoing **Notice of**
15 **Steve Kramer** on the date indicated below by mail with postage prepaid, deposited in
16 the US Mail at The Dalles, Oregon.

17 I further certify that said copy was placed in a sealed envelope delivered as
18 indicated above and addressed to said attorney at the address listed below:

19 Bradley V. Timmons
20 Timmons Law PC
21 P.O. Box 2350
22 The Dalles, OR 97058

23 Dated this 9 day of March, 2015.

24
25 
26 Thomas C. Peachey, OSB no. 783319
Attorney for Plaintiff

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASCO**

JOHN L. WOOD, an individual,

Plaintiff,

v.

**WASCO COUNTY, SCOTT HEGE,
STEVE KRAMER, and ROD RUNYON,**

Defendants.

Case No. CC15-00040

PLEADING INDEX

#	Description	Atty	Mailed/Filed/Entered
1	Complaint; Summons; and Acceptance of Service	TCP	Filed: 2/13/2015
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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASCO

JOHN L. WOOD, an individual,
Plaintiff,

v.

WASCO COUNTY, political subdivision
of the State of Oregon; and SCOTT
HEGE, STEVE KRAMER, and ROD
RUNYON, each in their individual and
official capacities as members of the
Board of County Commissioners of
Wasco County, Oregon,
Defendants.

Case No.: CC 15-40

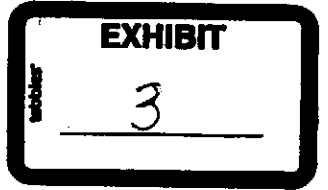
**MOTION FOR SUMMARY JUDGMENT
(ORCP 47) AND ATTORNEY FEES (ORS
20.105)**

UTCRC 5.050 Oral Argument Requested

- 1. Estimated Time for Oral Argument: 30 minutes
- 2. Official Court Reporting Services Requested: Yes
- 3. Oral Argument Request by Telephone: No

MOTION

Defendants Wasco County, Scott Hege, Steve Kramer and Rod Runyon, individually and in their capacities as members of the Board of County Commissioners of Wasco County, pursuant to ORCP 47 and for reasons more fully explained in this Motion, move this Court for summary judgment, dismissing Plaintiff's claims against Defendants, as there are no genuine issues of material fact and Defendants are entitled to judgment as a matter of law.



STATEMENT OF UNDISPUTED FACTS

1. Plaintiff is a citizen of Wasco County but not otherwise affiliated with the North Central Public Health District (the “NCPHD”).
2. The individually named Defendants make up the entirety of the current three-member Wasco County Board of Commissioners (the “BOC”).
3. The BOC is the governing body of Wasco County.
4. According to the Complaint filed in this matter, this lawsuit arises out of Plaintiff’s allegations that the BOC and its individual members violated the Oregon Public Meetings Law by deliberating outside of a public meeting regarding the NCPHD as follows:

- a. Commissioner Runyon forwarded an e-mail to Commissioner Kramer on November 28, 2014, consisting exclusively of his notes from a 2012 interview, with no additional comment or response (E-mail from Commissioner Runyon to Commissioner Kramer dated November 28, 2014, **Exhibit 1**);

- b. An unidentified communication between Commissioner Kramer and Commissioner Hege on July 7, 2014; and

- c. The following Motion adopted by the BOC in a properly noticed public meeting on December 17, 2014: “Commissioner Kramer moved to give notice of Wasco County’s intent to withdraw from NCPHD and to not sign a renewal IGA for NCPHD” (Wasco County Board of Commissioners December 17, 2014 meeting minutes, **Exhibit 2**).

- i. The Wasco County affiliation with the NCPHD was not specifically listed on the Notice for that meeting;

1 production of competent evidence establishing the absence of genuine issue of material
2 fact, plaintiff must produce evidence other than pleadings or conclusory denials. *ODO-*
3 *DEE v. Tri-County Metropolitan Trans District*, 202 Or App 456, 46-61 (2007).

4 No genuine issue of material facts exists if based upon the record before the court
5 viewed in a manner most favorable to the adverse party, no objectionably reasonable juror
6 could return a verdict for the adverse party on the matter that is the subject of the motion
7 for summary judgment. ORCP 47(c). Defendants are entitled to summary judgment
8 because even if there was a violation of Public Meetings Law, which Defendants dispute,
9 any possible violation was rectified and rendered moot by the February 18, 2015 public
10 meeting. Accordingly, there are no genuine issues of material fact and Plaintiff's claims
11 should be dismissed in their entirety.

12 **B. Plaintiff's Claims Are Moot.**

13 The relief requested in Plaintiff's Complaint pursuant to ORS 192.680 is for "the
14 Court declare void the decision of the Wasco County Commissioners to withdraw from
15 the NCPHD" and "other further relief as this Court deems equitable and just to assure
16 conformance of Defendants with Oregon's public meetings law." As further set forth
17 below, Defendants dispute that any occurrence of an actionable violation of the Open
18 Meetings Law was occasioned. Further, Defendants rescinded the complained of decision
19 by way of this February 18, 2015 public Motion: "the Wasco County Board of
20 Commissioners rescind its December 17, 2014 action by unanimous vote of the
21 Commissioners to withdraw from the north Central Public Health District." **As such,**
22 **there is nothing to declare void.**

23 Moreover, Plaintiff has not alleged that he was "affected" by the BOC decision, which
24 is an express requirement for standing to commence a Public Meetings Law action. ORS

1 192.180(2). Regardless, since the BOC's February 18, 2015 action rescinded the
2 complained of decision and, effectively, any prior action, Plaintiff cannot maintain the
3 claim that the BOC is somehow not in conformance with the Open Meetings Law. Here,
4 granting Plaintiff the substantive relief he requested, voiding the December 17, 2014
5 decision, would have **no effect on Plaintiff's rights**. Therefore, this case is moot. *Krisor*
6 *v. Henry*, 256 Or App 56, 59, 300 P3d 199, 201 review denied, 353 Or 787, 304 P3d 466
7 (2013) (a case becomes moot when "a court's decision no longer will have a practical
8 effect on or concerning the rights of the parties"); *Clapper v. Oregon State Police*, 228 Or
9 App 172 (2009). It is well established that when a case becomes moot dismissal is the
10 appropriate disposition. *Clapper, supra* at 178.

11 Even if Plaintiff is suggesting that this case is justiciable because a violation could
12 recur, the Oregon Court of Appeals addressed this in *Krisor*, which involved analogous
13 Public Meetings Law assertions:

14 [i]f, on the other hand, he means that there is a reasonable expectation that the fair
15 board will continue to make decisions in improperly noticed meetings, we reject
16 that argument as well. Plaintiff could continue to prosecute this governmental
17 action despite its mootness only if he meets three criteria: (1) he has standing, (2)
18 the board's allegedly unlawful activity is capable of repetition, and (3) "[t]he
19 challenged policy or practice, or similar acts, are likely to evade judicial review in
20 the future. ORS 14.175

21 *Krisor v. Henry*, 256 Or App at 60. As in *Krisor*, the "capable of repetition yet evading
22 review" doctrine does not apply here and, as in *Krisor*, this case must be dismissed.

23 Even though Plaintiff's claims are clearly moot, necessitating that this lawsuit be
24 dismissed, Defendants will nevertheless address the substance of Plaintiff's allegations as

1 follows, further evidencing that Defendants are entitled to summary judgment as a matter
2 of law.

3 **C. Information Gathering is Distinct from Deliberating.**

4 Regarding Commissioner Runyon's November 28, 2014 e-mail forwarding notes
5 from a 2012 interview to Commissioner Kramer, it is well settled pursuant to the Public
6 Meetings Laws that information gathering is distinct from deliberating. *Oregonian*
7 *Publishing Co v. Board of Parole*, 95 Or App 501, 769 P2d 795 (1989); *Harris v.*
8 *Nordquist*, 96 Or App 19; 771 P2d 631 (1989). The Public Meetings Law prohibition is
9 against a quorum of a governing body meeting in private for the purpose of deciding on or
10 deliberating toward a decision. ORS 192.630(2). The stakeholders in this case conducted
11 extensive public records requests and the only evidence adduced was a Commissioner
12 having forwarded notes from a 2012 interview to another. While this Court should draw
13 all reasonable inferences in favor of Plaintiff, it would be pure speculation, at very best, to
14 draw an inference that the purpose of this e-mail was to decide on or deliberate toward a
15 decision by the Board. Because there is no such evidence, there was no violation of ORS
16 192.630(2) and ORS 192.695 is not implicated. Finally, even if this action was a
17 violation of the Public Meetings Laws, it was rendered moot by the BOC's February 18,
18 2015 public decision to rescind the action regarding Wasco County's withdrawal from
19 with the NCPHD.

20 Similarly, while there is no evidence of the alleged July 7, 2014 communication
21 between Commissioner Kramer and Commissioner Hege, even if such communication did
22 occur and even if such action did constitute a violation of the Public Meetings Law, any
23 such claim was also rendered moot by the BOC's February 18, 2015 public decision to
24 rescind the action regarding Wasco County's withdrawal from with the NCPHD.

1 **D. The December 17, 2014 Action Was Not A Violation of the Public Meetings**
2 **Law.**

3 The Public Meetings Law requires that the notice of any meeting “include a list of the
4 principal subjects anticipated to be considered at the meeting.” ORS 192.640(1). This list
5 should be specific enough to permit members of the public to recognize any matters in
6 which they may be interested. *Id.* However, the Public Meetings Law does not require that
7 every item of business be described in the Notice. Specifically, according to ORS
8 192.640(1), a listing of principal subjects “shall not limit the ability of a governing body to
9 consider additional subjects.” Ultimately, the Public Meetings Law only requires that a
10 reasonable effort be made to inform the public and interested persons of the nature of the
11 important issues.

12 Here, the subject December 17, 2014 meeting itself was properly noticed. That
13 notice was reasonably calculated to give actual notice to interested persons, including the
14 news media/public/Plaintiff, of the time and place for the meeting. The notice also included
15 a list of the principal subjects. While it is arguable that Wasco County’s affiliation with the
16 NCPHD was a principal subject, the Public Meetings Law expressly states: “this
17 requirement shall not limit the ability of a governing body to consider additional subjects.”
18 ORS 192.640(1). Illustratively, the Oregon Attorney General has opined that principal
19 subjects that arose too late to be mentioned in the notice are permissible. Oregon Attorney
20 General Public Records and Meetings Manual, p. 145, citing ORS 192.640(1). On this
21 basis, a specific listing in the Notice at issue was not a legal requirement.

22 Regardless of the foregoing, even if this Court were to decide that a specific listing
23 was a legal requirement, voiding a decision is only a permissible, and not mandatory,
24 remedy. ORS 192.680(1). Further, ORS 192.680(1) expressly permits a governing body

1 that makes a decision in violation of the Public Meetings Law to reinstate a decision while
2 in compliance with the Public Meetings Law. ORS 192.680(1).

3 The foregoing is reflective of the well settled purpose of the Public Meetings Law,
4 which is to require open decision-making but not permanently condemn an action. Even if
5 this Court determines that the December 17, 2014 deliberation was in violation of the Public
6 Meetings Law, any such violation was remedied and rendered moot by the BOC's February
7 18, 2015 rescission of its December 17, 2014 decision. In other words, Plaintiff's request
8 that this Court void the December 17, 2014 action became moot following the February 18,
9 2015 public meeting, which was properly noticed, conducted in public and fully observed
10 by the public and Plaintiff.

11 Ultimately, the BOC rectified any alleged violation of the Public Meetings Law,
12 including: 1) the December 17, 2014 Motion; 2) the November 28, 2014 e-mail
13 communication; and/or 3) the alleged July 2014 communication. Accordingly, there is no
14 relief available. Further, Plaintiff is not entitled to attorney fees as detailed below. Finally,
15 assessing penalties against the BOC would contravene the intended purpose of the statute by
16 undermining a public body's ability to correct itself.

17 **E. Attorney Fees**

18 **1. Plaintiff Is Not Entitled Attorney Fees.**

19 Plaintiff's claim for attorney fees must be dismissed. It is well settled that "[w]here a
20 case has become moot before entry of judgment, the entire case, including attorney fees,
21 is moot." *Krisor*, 256 Or App at 61 citing *Kay v. David Douglas Sch Dist No. 40*, 303 Or
22 574, 578, 738 P2d 1389 (1987), cert den, 484 US 1032 (1988) (attorney fee issue
23 insufficient to preserve justiciability where case mooted before entry of judgment).

1 Additionally, it is important to note that the award of attorney's fees in a Public
2 Meetings Law action is only available to Plaintiff if he is the prevailing party. ORS
3 192.680(3). However, when a judgment dismisses a complaint, as Defendants anticipate,
4 the defending party is typically considered the prevailing party. *Clapper v. Or State*
5 *Police*, 228 Or App 172, 178 (2009); *see also Brennan v. La Tourelle Apartments*, 184 Or
6 App 235, 243; 56 P3d 423 (2002).

7 If this Court dismisses Plaintiff's lawsuit for any other reason, it appears that
8 Plaintiff's only theory for attorney's fees would be pursuant to the "catalyst theory." The
9 catalyst theory has been defined by the Oregon courts that have discussed the issue as
10 follows: "[w]here a defendant voluntarily complies with a plaintiff's requested relief,
11 thereby rendering the plaintiff's lawsuit moot, the plaintiff is a 'prevailing party' ... if his
12 suit is a catalyst for the defendant's voluntary compliance." *Clapper*, 228 Or App at 178
13 (*quoting Brennan v. La Tourelle Apartments*, 184 Or App 235, 244 (2002) (and cases
14 cited)).

15 However, precedent is unequivocal that Oregon courts have expressly
16 rejected the catalyst theory. *Clapper*, 228 Or App at 179; *see also Buckhannon*, 532 US
17 598 (2001) (rejecting catalyst theory; "A defendant's voluntary change in conduct,
18 although perhaps accomplishing what the plaintiff sought to achieve by the lawsuit, lacks
19 the necessary judicial imprimatur on the change."). Moreover, even if this Court were to
20 recognize a catalyst theory, Plaintiff cannot show that Defendants' rescission of its
21 December 17, 2014 action was due to the filing of this action rather than the actual
22 reasons set forth in the facts of this Motion. *See Clapper*, 228 Or App at 179.

23 **2. Defendants Are Entitled To Attorney Fees.**

24

1 Defendants request and are entitled to an award of attorney fees pursuant to ORS
2 20.105(1). Specifically, ORS 20.105(1) requires an attorney fee award if the trial court
3 finds that a party pursued a claim or defense with “no objectively reasonable basis.” A
4 claim lacks an objectively reasonable basis if it is “entirely devoid of legal or factual
5 support,” either at the time it is made or, in light of additional evidence or changes in the
6 law, **as litigation proceeds**. *Dimeo v. Gesik*, 197 Or App 560, 562, 106 P3d 697 (2005)
7 (emphasis added) (citing *Dimeo v. Gesik*, 195 Or App at 560, n. 7, 98 P3d 397, describing
8 a holding in *McCarthy v. Oregon Freeze Dry, Inc.*, 334 Or 77, 84, 46 P3d 721 (2002) as:
9 “attorney fees may be appropriate when a party continues to litigate a claim after facts
10 emerge that make the claim objectively unreasonable”). In other words, a party has a
11 continuing duty to evaluate its position throughout the course of litigation.

12 Here, Plaintiff’s claims are objectively unreasonable as they are not supported by the
13 law as applied to the undisputed facts. Furthermore, Plaintiff had ample opportunity to
14 prevent and then to dismiss this lawsuit that had become wholly baseless. Notably,
15 Defendants, prior to this lawsuit, informed Plaintiff’s attorney of their intent to re-notice
16 its withdrawal from the NCPHD for a February 18, 2015 public hearing. See letter dated
17 February 11, 2015, **Exhibit 3**. Defendants also offered to toll the time in which Plaintiff
18 had to file this claim until after the February 18, 2015 meeting. See letter dated February
19 13, 2015, **Exhibit 4**. Plaintiff responded by filing this lawsuit. Defendants then, after the
20 February 18, 2015 BOC meeting, invited Plaintiff to voluntarily dismiss this lawsuit
21 when it became clear that any potential Open Meeting Violation was remedied and that
22 Plaintiff’s claims were rendered moot. See letter dated February 23, **Exhibit 5**. Instead,
23 overly broad and entirely onerous discovery requests were recently served on Defendants.
24

1 Based on all of the foregoing, no ruling by this Court would impact the rights of
2 either party and there is no proper purpose for this action. As such, Defendants are entitled
3 to attorney fees for being forced to dissipate taxpayer and Circuit Court time and resources
4 to continue to litigate this baseless action.

5 **CONCLUSION**

6 Defendants in this case are entitled to judgment as a matter of law because any
7 violation of the Public Meetings Law was remedied at the February 18, 2015 public meeting
8 held in accordance with the law. During the February 18, 2015 deliberation the public and
9 Plaintiff had an opportunity to be heard. At that meeting, the BOC took action that
10 rescinded the December 17, 2014 decision and, effectively, any prior action, which rendered
11 Plaintiff's lawsuit moot. Accordingly, summary judgment is appropriate, as a matter of law,
12 in favor of Defendants, dismissing Plaintiff's claims against Defendants in their entirety.
13 Defendants are also entitled to their attorney fees for being forced to continue to defend this
14 wholly unreasonable lawsuit.

15
16 DATED this _____ day of March, 2015.

17 TIMMONS LAW PC

18
19 _____
20 Bradley V. Timmons, OSB No. 903941
21 Kristen A. Campbell, OSB No. 135998
22 Of Attorneys for Defendants
23
24



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THOMAS C. PEACHEY
ANDREW J. MYERS

PATRICIA KUEHNL - LEGAL ASSISTANT
PAMELA M. RIISE - LEGAL ASSISTANT
VERONICA WILCOX - LEGAL ASSISTANT

RECEIVED

MAR 19 2015

March 17, 2015

**VIA EMAIL: TylerS@co.wasco.or.us
and 1st Class Mail**

Tyler Stone
Administrative Officer
Wasco County Administrative Services
511 Washington Street, Suite 101
The Dalles, OR 97058

COPY

**Re: Public Records Request Pursuant to ORS 192.440
John L. Wood v. Wasco County, et al.
Wasco County Circuit Court Case no. CC15-00040**

Dear Mr. Stone:

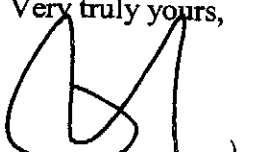
As you are aware, this office represents John L. Wood in the above-referenced matter.

As a result, I am making a request of Wasco County to provide to me public records under the auspices of ORS 192.440. Those records are the following:

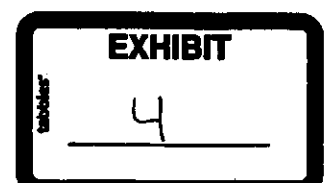
- 1) All records or documents disclosing communications, of any sort and from any device, from any Defendant named herein, whether public entity, individual, or as a commissioner in an official capacity, directed to or copied to any Defendant, from January 2013 to the present.

If any of these documents are maintained in an electronic form, it is requested that they be provided to me only in that form.

Very truly yours,


Thomas C. Peachey
TCP/pr

cc: client (via email only)
Bradley V. Timmons (via email: brad@timmonslaw.com and mail)



1 CERTIFICATE OF SERVICE
2 *Wood v. Wasco County, et al*
3 Wasco County Circuit Court Case No. CC15-40

4 I hereby certify that I served a true and correct copy of the foregoing **Motion for**
5 **Protective Order and Declaration of Bradley V. Timmons** on the date indicated below by

6 Mail with postage prepaid, deposited in the US Mail at The Dalles, Oregon,

7 Hand delivery,

8 Facsimile transmission,

9 Overnight delivery

10 If served by facsimile transmission, attached to this certificate is the printed confirmation
11 of receipt of the document(s) generated by the transmitting machine. I further certify that said
12 copy was placed in a sealed envelope delivered as indicated above and addressed to said
13 attorney(s) at the address(es) listed below.

14 Thomas C. Peachey
15 Peachey & Myers, PC
16 PO Box 2190
17 The Dalles, OR 97058

18 Andrey Myers
19 Peachey & Myers, PC
20 PO Box 2190
21 The Dalles, OR 97058

22 DATE: March 20, 2015.

23 TIMMONS LAW PC

24 By: 

Bradley V. Timmons, OSB No. 903941
Staci L. McCarthy, OSB No. 076222
Kristen A. Campbell, OSB No. 135998
Of Attorneys for Defendants
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