

EXPEDITE  
 Hearing is set:  
Date: September 6, 2024  
Time: 9:00 a.m.  
Judge/Calendar: Hon. Anne Egeler

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF THURSTON**

SAVE THE DAVIS-MEEKER GARRY OAK,

Plaintiff,

vs.

DEBBIE SULLIVAN, in her capacity of Mayor  
of Tumwater,

Defendant.

**NO. 24-2-01895-34**

**DECLARATION OF JEFFREY S.  
MYERS IN SUPPORT OF MOTION FOR  
ATTORNEY’S FEES**

I, Jeffrey S. Myers, hereby states and declares as follows:

1. I am the attorney for Defendant Mayor Debbie Sullivan, who has been sued in her official capacity and the City of Tumwater in the above entitled matter. I am over the age of 18, am competent to testify herein, and make this declaration based upon personal knowledge.

2. In response to a temporary restraining order (“TRO”) which was issued *ex parte* and provided to the City of Tumwater on May 24, 2024, I was retained to oppose the plaintiff’s request for an injunction and to seek dissolution of the TRO. The City immediately filed an emergency motion to dissolve the TRO which failed to comply with the notice requirements of CR 65 and RCW 7.40.050 and motions to shorten time. The TRO failed to contain any factual findings whatsoever or describe the basis for imposition of the TRO. It failed to contain any requirements for a hearing to allow the city of

1 Tumwater to oppose the injunction or to convert the TRO into a preliminary injunction as set forth in CR  
2 65. The TRO further failed to include any financial security or bond to protect the City of Tumwater  
3 against the consequences if the TRO was determined to be wrongfully issued, despite the requirements of  
4 CR 65 and RCW 7.40.080.

5  
6 3. The court shortened time and set the motion to dissolve the TRO for May 31, 2024. The  
7 parties filed additional briefing and oral argument was heard. The Court granted the motion to dissolve  
8 the TRO but stayed the effective date of its order until June 5, 2024 to allow the plaintiff an opportunity  
9 to seek emergency relief in the court of appeals.

10 4. On May 31, 2024, the plaintiff filed an “emergency notice of appeal” to the court of  
11 appeals. . However, the plaintiff did not file an emergency motion to stay the dissolution order or  
12 otherwise seek emergency relief under RAP 17.4(b). In response, on June 3, 2024, the Court of Appeals  
13 issued a ruling informing the plaintiff that it could not grant any such relief unless such an emergency  
14 motion for a stay was filed. A copy of the Court of Appeals’ June 3, 2024 ruling is attached as **Exhibit**  
15 **1**. As a result of their failure to file such a motion, the TRO was dissolved and this Court’s May 31 order  
16 became effective on June 5, 2024. Plaintiff delayed for another month, waiting until July 2, 2024 to file a  
17 motion with the appellate court seeking a stay of this court’s May 31, 2024 ruling. In that motion, the  
18 plaintiff contended that the order dissolving the TRO was an appealable final order. The Court of Appeals  
19 agreed in its July 23, 2024 ruling that the superior court effectively determined the City’s right to remove  
20 the tree, and because it appears no other issues remain pending in the superior court, allowing the appeal  
21 to proceed under RAP 2.2(a)(3). See Telegin Decl., Exhibit B.

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23  
24 5. Instead of filing an emergency motion with the court of appeals, as noted by the July 3  
25 ruling and allowed by this Court’s May 31 order, the plaintiff instead sought to remove this matter to  
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