

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**

**DEFENDANT’S MOTION FOR  
ATTORNEY’S FEES**

Pursuant to this Court’s equitable powers, Defendant Mayor Debbie Sullivan of Tumwater moves, by and through her undersigned attorney, for attorney’s fees.

**I. FACTS**

This case arises from attempts by a group of activists to enjoin the removal of the Davis Meeker Garry Oak which was determined to be hazardous by the City of Tumwater’s contracted arborist. *Plaintiff’s Complaint* at 1-2. A temporary restraining order (“TRO”) was issued *ex parte* and provided to the City of Tumwater on May 24, 2024. Declaration of Jeffrey S. Myers (hereinafter “Myers Decl.”) at ¶ 2.

The City immediately filed an emergency motion to dissolve the TRO which failed to comply with notice requirements. Myers Decl. ¶ 2. The TRO failed to contain any factual findings whatsoever or describe the basis for imposition of the TRO. Myers Decl. ¶ 2. It failed to contain any requirements for a

1 hearing to allow the city of Tumwater to oppose the injunction or to convert the TRO into a preliminary  
2 injunction as set forth in CR 65. Myers Decl. ¶ 2. The TRO further failed to include any financial security  
3 or bond to protect the City of Tumwater against the consequences if the TRO was determined to be  
4 wrongfully issued. Myers Decl. ¶ 2.

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6 The court shortened time and set the motion to dissolve the TRO for May 31, 2024. Myers Decl.  
7 ¶ 3. The Court granted the motion to dissolve the TRO but stayed the effective date of its order until June  
8 5, 2024 to allow the plaintiff an opportunity to seek emergency relief in the court of appeals. Myers Decl.  
9 ¶ 3. On May 31, 2024, the plaintiff filed an “emergency notice of appeal” to the court of appeals. Myers  
10 Decl. ¶ 4. However, the plaintiff did not file an emergency motion to stay the dissolution order or  
11 otherwise seek emergency relief under RAP 17.4(b). Myers Decl. ¶ 4. In response, on June 3, 2024, the  
12 Court of Appeals issued a ruling informing the plaintiff that it could not grant any such relief unless such  
13 an emergency motion for a stay was filed. Myers Decl. ¶ 4. As a result of their failure to file such a motion,  
14 the TRO was dissolved and this Court’s May 31 order became effective on June 5, 2024. Myers Decl. ¶  
15 4. Plaintiff delayed for another month, waiting until July 2, 2024, to file a motion with the appellate court  
16 seeking a stay of this court’s May 31, 2024, ruling. Myers Decl. ¶ 4. In that motion, the plaintiff contended  
17 that the order dissolving the TRO was an appealable final order. Myers Decl. ¶ 4. The Court of Appeals  
18 agreed in its July 23, 2024, ruling that the superior court effectively determined the City’s right to remove  
19 the tree, and because it appears no other issues remain pending in the superior court, allowed the appeal  
20 to proceed under RAP 2.2(a)(3). Myers Decl. ¶ 4.

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23 Instead of filing an emergency motion with the court of appeals, as noted by the July 3 ruling and  
24 allowed by this Court’s May 31 order, the plaintiff instead sought to remove this matter to federal court.  
25 Myers Decl. ¶ 5. A notice of removal was filed by the plaintiff on June 4, 2024, even though the plaintiff  
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