

RESOLUTION NO. _

**PROVIDING A DEFENSE TO
SKAGIT COUNTY OFFICERS, OFFICIALS
AND EMPLOYEES IN MULTIPLE LAWSUITS**

WHEREAS, multiple civil lawsuits have been filed recently in United States District Court, Western District of Washington, naming elected public officials or officers and their deputies, and the County of Skagit as Defendants as follows:

Steven Rindal v. Inslee, et al. 22-CV-01843-RSL
Don McDermott, Sandra Perkins, Richard Weyrich, Lisa Janicki, Peter Browning,
Ronald Wesen, County of Skagit

Eric Freeze v. McDermott, et al. 22-CV-01844-JLR
Don McDermott, Lisa Janicki, County of Skagit

Cody Hart et al v. Commissioners et al. 23-CV-00309-MJP
Lisa Janicki, Peter Browning, Ronald Wesen, County of Skagit

Cody Hart et al v. Weyrich et al. 23-CV-00311-MJP
Richard Weyrich, County of Skagit

Cody Hart et al v Perkins et al. 23-CV-0312-MJP
Sandra Perkins, County of Skagit

Cody Hart et al v. Canvassing Board et al. 23-CV-00404-RSL
Sandra Perkins, Lisa Janicki, Ronald Wesen, Richard Weyrich, Erik Pedersen,
Melinda Miller, County of Skagit

Cody Hart et al v McDermott et al. 23-CV-0503-RSM
Don McDermott, Richard Weyrich, County of Skagit

and a civil lawsuit was filed in Snohomish County Superior Court naming elected public officials or officers and the County of Skagit Defendants as follows:

Cody Hart v Commissioners, et al. 23-2-00891-31
Lisa Janicki, Peter Browning, Ronald Wesen, Skagit County

WHEREAS, the Complaint in each of these matters names Skagit County officials, officers or employees, alleged to have been involved in certain acts but who appear at all times to have been

acting in their official capacities; and

WHEREAS, the above-named Defendants (except for Mr. Pedersen and Ms. Miller who are duly appointed deputies of the elected Skagit County Prosecutor) are all county officials duly elected to their offices; and

WHEREAS, the Plaintiffs in cases 23-CV-00309-MJP, 23-CV-00311-MJP, and 23-CV-0312-MJP assert that the duly elected officials allegedly have vacated their offices due to a claimed failure to obtain bonds despite having bonds in place at all times, but Plaintiffs do not challenge that the officials were elected to their offices, nor do they have standing to bring a quo warranto action; and

WHEREAS, RCW 36.27.020 has a mandatory provision that the county prosecuting attorney shall be legal adviser to all county officers in all matters relating to their official business, and shall defend all suits brought against the state or the county and therefore the prosecuting attorney has the authority to represent county officers without explicit appointment; and

WHEREAS, Skagit County Resolution 10492 states that the Board of Commissioners believe that all costs associated with lawsuits against county employees or officials should be assumed by Skagit County either through insurance or through the prosecuting attorney's office; and

WHEREAS, the Complaint in each of these matters names Skagit County officials, officers or employees, allege actions of public officials in their individual and official capacities, but fails to identify a distinction between conduct in an individual or official capacity or describe in what manner the Skagit County officials, officers or employees were acting in their individual capacity; and

WHEREAS, Skagit County Code (SCC) 2.20.030 provides that Skagit County may provide for the defense of a current or former officer, official or employee when a lawsuit is filed against such officer, official or employee which "arises out of an official act," and SCC 2.20.040 requires that certain findings be made by the Board in conjunction with the authorization of a defense of a current or former officer, official or employee in their individual capacities; and

WHEREAS, the Board of County Commissioners is sufficiently familiar with the facts in these matters to enter this resolution; and

WHEREAS, the Board finds as follows:

1. The above-named Defendants (except for Mr. Pedersen and Ms. Miller) are all county officials duly elected to their offices and are qualified and therefore have the right to hold their offices; and
2. Defendants Mr. Pedersen and Ms. Miller are duly appointed deputies of the elected Skagit

County Prosecutor and to have authority act in official capacities in those positions.

3. The above-named Defendants appear to all have been acting at all times material to the above-referenced Complaint in a matter which the County had an interest; and
4. The above-named Defendants appear to all have been acting at all times material to the above-referenced Complaint in the performance of their official duties and official capacities; and
5. The above-named Defendants appear to all have been acting at all times material to the above-referenced Complaint in good faith.
6. The allegations in case numbers 22-CV-01843-RSL, 22-CV-01844-JLR, 23-CV-00309-MJP, 23-CV-00311-MJP, 23-CV-0312-MJP, 23-CV-00404-RSL, 23-CV-0503-RSM, and 23-2-00891-31 appear to lack merit including an order granting summary judgment dismissing the action in case 23-2-00891-31 entered April 13, 2023, .and determined plaintiff's complaint and plaintiff's prior summary judgment motion were not well grounded in fact.

NOW, THEREFORE, BE IT RESOLVED, that Skagit County will provide a defense to the above-named Defendants; and

BE IT FURTHER RESOLVED that such defense be to the above-named Defendants shall be by the office of the Skagit County Prosecuting Attorney, and,

BE IT FURTHER RESOLVED that the Skagit County Human Resources and Risk Management shall confirm with each defendant their willingness to accept the Skagit County Prosecuting Attorney as their representative in this action.

PASSED this 17 day of April, 2023.

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**



Ronald Wesen

Ronald Wesen, Chair

Lisa Janicki

Lisa Janicki, Commissioner

Peter Browning

Peter Browning, Commissioner

Attest:

Kate Williams

Clerk of the Board

Approved as to Content:

Richard A. Weyrich

Richard A. Weyrich, Prosecuting Attorney
Department Head

Approved as to form:

Erik Pedersen

Erik Pedersen
Civil Deputy Prosecuting Attorney
Erik Pedersen, Reviewed 4/12/2023

Approved:

Marylauben

Risk Management