

150338

Skamania County
SEP 13 1 34 PM '03
P. Lowry
J. 112

By: _____
Received by: _____
Office: _____
Time: _____
Date: _____

SKAMANIA COUNTY CLAIM FOR DAMAGE FORM

CLAIMANT: THIS CLAIM MUST BE FILED WITH THE SKAMANIA COUNTY CLERK OF THE BOARD Skamania County Auditor's Office Skamania County Courthouse 240 North West Vancouver Avenue, Room 27 Stevenson, WA 98648	FOR OFFICE USE ONLY: CLAIM NO. _____ DATE FILED: _____ COPIES TO: _____ ATTACHMENTS: YES(<input type="checkbox"/>) NO <input type="checkbox"/>
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NO DAMAGES CAN BE PAID BY SKAMANIA COUNTY UNLESS THIS FORM IS COMPLETE. THIS PROVISION CANNOT BE WAIVED.

1. Name (including spouse if married): (Please Print)
Chuck Bryan, c/o Kenneth B. Woodrich
2. Woodrich & Archer LLP P.O. Box 510 Stevenson, WA 98648
Address City State Zip
3. HM Phone: _____ WK Phone: 509-427-5665 MSSG Phone: (Fax) 509-427-7618
4. Date and time of incident: January 8, 2003
5. Location of incident:
Skamania County Courthouse, Auditor's Office
6. Describe in narrative form and in detail exactly how the incident occurred:
The County Auditor, Michael Garvison, sent a libelous email to 19 officials regarding the claimants a copy of which is attached hereto and incorporated herein by this reference.
7. What is the amount of damages claimed arising out of the following circumstances (Include estimates and bills, if available):
\$30,000

8. Please list name and address of any and all witnesses or persons involved:
(Please Print)

Michael Garvison, 19 public officials listed on
the email. Local County officials and employees.

9. Describe the damages or injuries you sustained as a result of the incident:

Damages to reputation

10. Was incident investigated by a police officer? Sheriff _____ State Patrol _____
District Attorney - Peter Banks City _____

11. If a vehicle was involved in the incident, describe: Make _____
Model _____ Year _____ State _____ License No. _____
Insurance Company _____ Policy Number _____

12. Describe what you did after the incident occurred:

Sent letter to Mr. Garvison

13. Describe the conversations you had, if any, with County personnel during or after
the incident occurred. See letter to Michael Garvison attached.

14. How did you identify the County as the party responsible for your damage?
Mr. Garvison forwarded his letter to the County
Commissioners and Mr. Banks replied.

I certify under penalty of perjury under the laws of the State of Washington that the
information contained in this claim is true and correct.

DATED THIS 19 DAY OF September, 20 03

Charles B. Gar
Claimant's Signature

File Name: Commisa/Risk Mang/Claims/Claim For Damages

NOTE: Personal property (car, etc.) damages are to be accompanied by 2 estimates for repair costs. The Skamania
County Risk Manager will investigate this claim. The decision to honor this claim will be based upon that investigation.
Making a false report or providing false evidence is a crime and punishable by fine and/or imprisonment. Additional
pages may be attached if needed to answer the questions.

RECEIVED TIME 4:07PM 1. 855

From: *garvison@co.skamania.wa.us*;
Organization: Skamania County
To: <auditor@auditor.co.mason.wa.us>,
<johnston@co.asotin.wa.us>,
<cmckeown@co.clallam.wa.us>,
<Nancy_hoffman@co.columbia.wa.us>,
<Tduvall@Co.douglas.wa.us>,
<zlenhart@co.franklin.wa.us>,
<vspatz@co.grays-harbor.wa.us>,
<davidb@co.kittitas.wa.us>,
<gzandell@co.lewis.wa.us>,
<robb7673@co.okanogan.wa.us>,
<cpearsa@co.pierce.wa.us>,
<bob.terwilliger@co.snohomish.wa.us>,
<wymank@co.thurston.wa.us>,
<kmmartin@co.walla-walla.wa.us>,
<corky.mattingly@co.yakima.wa.us>,
<bob.roegner@metrokc.gov>,
<vdalton@spokanacounty.org>,
"Brian Sonntag" <SONNTAGB@sao.wa.gov>,
"Donna Eldridge" <deldridge@co.jefferson.wa.us>
Date sent: Wed, 9 Jan 2003 12:29:29 PST
Subject: RE: Message from Brian Sonntag
Priority: normal

Donna,

I wish my county was considered a low-risk auditee. In the ten years before I was appointed, there were 15 findings and numerous management letters running the gamut from finding discovered by SAOs, to payroll findings, to AP findings, and District Court findings. I myself when auditing the County as an employee of SAO wrote four findings about Skamania County in the two years that I was the AIC (Auditor-In-Charge).

My county has traditionally had a cowboy mentality of let's do what we want if it's legal or not. For example, I have a County Engineer who purchases heavy machinery that is not budgeted, has it delivered to the County and starts using the heavy machinery, and holds the invoice until the equipment has been used for a month so the County is then obligated to pay for this unbudgeted equipment. He is never held accountable.

Bob Talent

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Thu, 9 Jan 2003 11:26:31

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509 427 4839

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I have another Elected official who believes that he can give sick and annual leave that has not been earned, to his employees in violation of the Extra Compensation prohibition in the State Constitution, and County policy. This very same elected official threatened me with bodily harm, when I looked into his sweetheart deal on two wave-runners that were given to the County to use for official law-enforcement duties. He used his position as an elected official to receive a personal gain. Again, I brought this to SAO's attention, and have not heard back if they feel it is an audit issue or not. I had two potential frauds I learned about early on in February of 2002 and brought them to the attention of SAO as required by law, I am still waiting to hear if they looked into the frauds, or if they were considered to not be valid.

So I don't learn about potential problems until usually after the fact, and if my county goes to a bi-annual audit, it will make the matters worse, because if SAO isn't looking over the counties shoulder, then who will?

SAO has some of the pre-eminent experts in their field, Joe Dervaes, Rick Sweeney are examples of them. My problems are not with SAO as a whole, because I know that there are over 300 very dedicated hard-working individuals that truly believe that they are the public's watchdog, my problem is with the lack of information and lack of communication with the Vancouver regional office. I hear one thing from Brian and his staff in Olympia, then I hear completely different information from Vancouver. Then, there are the potential frauds that I never hear back from SAO on. It is truly a partnership between SAO and the Counties, but how can we live up to our end of the bargain if SAO won't?

~~But the idea to bring these issues out publicly, of course I do. But,~~ if we can't discuss them openly, then the problems will continue. If I am unaware of problems in my own office or my county, how can I make positive change unless someone is brave enough to bring them to my attention without fear of retribution? ~~I have tried to address these issues privately, but that has not got me anywhere. It's unfortunate that we have had to get to the point where we currently are to address what appear to be systemic problems.~~

I truly hope that we can see improvements, because as I have said from

Bob Talent

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day one, I truly believe in SAO's purpose, even when it makes me seem like some Boy-Scout goody-two-shoes.

J. Michael Garvson, CGFM
Skamania County Auditor
509-427-9426
garvson@co.skamania.wa.us

"Accounting is not just about technicalities; it is about morality... Seeing that other office-holders, especially those with superior powers and responsibilities, follow the law and use public resources responsibly does not merely require technical competence, it requires considerable moral courage too." - Quote from Mr. Gerald Gaiden 2002

On 8 Jan 2003 at 10:45, Donna Eldridge wrote:

> All,

>

> George Amburn, Audit Manager for our area, call me yesterday and
> said Jefferson

County is one of the counties that will be going on this two year audit cycle for the High Risk - I/C & Legal Compliance work, and still do the Single Audit and Financial Statements on an annual basis. I have talked with our Treasurer and County Administrator, and they agree with me - this is good news for Jefferson County. Part of the criteria of SAO choosing Jefferson County was no findings for 5 years and a good control environment. For budget year 2003, we had budgeted approx. \$40,000, and now we will not expend approx. \$25,000. With a very tight budget, this is good news. I'm sure our Commissioners will fund some other need with these savings. >> Mike, as far as your concerns regarding the possibility of a legal compliance issue, and that you would be in year three of the problem before being made aware of it, I agree with Greg, we know about an issue will in advance. Going one step beyond that, we, on occasion, request that SAO look at certain concerns we may have. Our County has taken steps to protect public dollars by assessing risks related to waste, misappropriation and abuse and taking action to ensure such instances are prevented or detected in a timely manner. >> Brian, I appreciate the close working relationship we have had with your staff, especially George Amburn, Kitty Davy, Joe Simmons and Mark Rapozo, and look forward to that continuing relationship. >> See you all in Olympia for the WSACA Legislative Mini-Conference. >> Donna >>> ---Original

Bob Talent

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Thu, 9 Jan 2003 11:26:31

RECEIVED TIME FEB. 1. 4:07PM

Message----- > From: garvison@co.skamania.wa.us
[mailto:garvison@co.skamania.wa.us] > Sent: Tuesday, January 07, 2003
4:51 PM > To: auditor@auditor.co.mason.wa.us;
ejohnston@co.asotin.wa.us; > cmckeown@co.clallam.wa.us;
Nancy_hoffman@co.columbia.wa.us; > Tduvall@Co.douglas.wa.us;
zlenhart@co.franklin.wa.us; > vspatz@co.grays-harbor.wa.us; Donna
Eldridge; davidb@co.kittitas.wa.us; > gzandell@co.lewis.wa.us;
robb7873@co.okanogan.wa.us; > cpearsa@co.pierce.wa.us;
bob.terwilliger@co.snohomish.wa.us; > wymank@co.thurston.wa.us;
kmmartin@co.walla-walla.wa.us; > corky.mattingly@co.yakima.wa.us;
bob.roegner@metrokc.gov; > vdalton@spokane-county.org; Brian Sonntag >
Subject: Re: Message from Brian Sonntag > > I am glad that you took
the time to respond, so that we have a clear understanding of > your
office's approach, which I feel is very beneficial for all of us
County Auditor's. As > for split reporting, I think my views are
pretty clear on them not being the best thing > for my County, and it
appears that other counties also agree for their respective >
counties. I was told by Jason McEathren of the Vancouver regional
office that the > split reporting and going to a 2-year audit cycle
was our decision as the auditee. > Now, from your e-mail it appears
that I received incorrect information, and you are > unilaterally
changing my County's audit cycle from an annual audit to a 2-year audit
and I am strongly > opposed to it because it is too great of a
business risk for my county to incur. This is > not the first time
that I have received only a fraction of the story from your office and
I > truly feel that the information from your Vancouver office is
misleading and > contradicts the official Olympia information. > > I
think your unilateral change for my County without my input
contradicts your > statement about open and honest communication, so I
hope that I am mis-reading > your intentions. As for contacting you
about audit concerns, after the conclusion of > my 2001 audit
completed in September 2002, I wrote a two-page customer service >
response detailing difficulties I had with your audit staff this year.
I hesitated to write > this honest critique of the sloppy and
unprofessional way my audit was conducted > because of the friendships
I had and still have with the auditors in the Vancouver > office. But,
after you received my survey, Mike Murphy contacted me and stated that
> since I was formerly an assistant state auditor that the concerns I
brought forward > were not addressed in a formal manner. > > I really
want to believe that your message of us (SAO and the counties) as a >
partnership is a reality. But, there is an old saying that actions

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speaking louder than words, and I think the saying is appropriate here.
>> I appreciate you taking the time to answer my concerns, and
hopefully we will have a true partnership and not the one-sided mess
we have had in my short time in office. >> On 7 Jan 2003 at 15:13,
Brian Sonntag wrote: >>> On Monday, January 6, a confusing e-mail
was sent to all County Auditors. I feel a brief response is necessary.
>>>> The e-mail was, in part, critical of a new approach our Office
is using in an effort to recognize the financial hardships local
governments are facing and to respond to suggestions from you on how
to make our audits more effective, efficient and timely. > We believe
that the split reporting approach will allow us to do this. For
several years, we have been auditing some governments on a two-year
cycle. This year, we will audit several counties (Skamania,
Jefferson, Pend Oreille, Adams and Ferry) on a two-year cycle for
compliance issues, while annually examining financial statements and
doing federal audit work, if needed. >>>> On a personal note, I
believe that it is time for people to stop trying to undermine the
work of this Office by second-guessing my commitment to the state's
taxpayers. I am proud of our Office's relationship with county
auditors throughout Washington, and I know that the open and honest
communications we have had over the years will continue. >>>> If
any of you have any concerns, please contact me. I believe that
constructive dialogue is the best way to work through any issues
that may arise. >>>> Brian >>>>> J. Michael Garvison, CGFM >
Skamania County Auditor > 509-427-9426 > garvison@co.skamania.wa.us

Bob Talent

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509 427 4839

Skamania Co PM

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KENNETH B. WOODRICH P.C.*
KATY J. ARCHER P.C.

*Also admitted in Oregon

WOODRICH & ARCHER LLP

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STEVENSON, WA 98648

TELEPHONE: (509) 427-5665
FAX: (509) 427-7618

Portland Office:
Davis Business Center
4370 NE Hailey
Portland, OR 97213
Telephone: (503) 288-2480

Reply to Stevenson

July 31, 2003

Mike Garvison
Skamania County Auditor's Office
Skamania County Courthouse
240 NW Vancouver Avenue, Room 27
Stevenson, Washington 98648

Re: Charles Bryan and Brent Holman

Dear Mr. Garvison:

I represent Charles ("Chuck") Bryan and Brent Holman. They have retained me to initiate legal action against you for a January 6, 2003 letter that you wrote and disseminated.

As you well know, Chuck Bryan retired, after 28 years with the Department, as the Skamania County Sheriff on December 31, 2002. Chuck is also a lifetime resident of Skamania and Klickitat Counties and enjoys an outstanding reputation for being honest, moral, hardworking, and law abiding in his personal and professional life. Chuck also has many professional and business colleagues and friends and family that live and work in Skamania and Klickitat Counties, as well as throughout the state of Washington. Although he is retired as the Sheriff, Chuck still plans to work either in private business or as a public official. Chuck also has indicated a desire to someday run for State Representative or Senator. Indeed, Chuck currently serves as the Chair of the Skamania County Republican Party. Therefore, his reputation for competency, honesty and being a law abiding citizen are very important to him personally as well as to his future goals.

As you also know, Brent Holman is the County's Engineer and Public Works Director. As such, he serves at the will of the County Commissioners. Brent's reputation for being trustworthy, competent and diligent are keys to his continued employment and effectiveness as a public official. As the County Engineer, Brent's reputation at the State level is also important to his ability to secure funding and other privileges on behalf of Skamania County. Therefore, Brent's reputation is an essential requirement. Brent is also a longtime resident of the Columbia River Gorge and has enjoyed a good reputation in both the private and public sectors for his hard work, diligence and honesty.

In one fell swoop, you have single handedly tarnished both of these fine gentlemen's reputations in both the local area as well as throughout the state of Washington.

Mr. Mike Garvison
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On January 6, 2003, you sent most of the County Auditors throughout the state of Washington and the Washington State Auditor Brian Sonntag an e-mail. In that e-mail -- which generally concerned whether the State Auditor should audit counties once a year or once every two years -- you wrote the following:

"My county has traditionally had a cowboy mentality of lets do what we want if it's legal or not. For example, I have a County Engineer who purchases heavy machinery that is not budgeted, has it delivered to the County and starts using the heavy machinery, and holds the invoice until the equipment has been used for a month so the County is then obligated to pay for this unbudgeted equipment. He is never held accountable.

I have another elected official who believes that he could give sick and annual leave that has not been earned, to his employees in violation of the Extra Compensation [sic] prohibition in the State Constitution, and County policy. This very same elected official threatened me with bodily harm, when I looked into his sweetheart deal on two wave runners that were given to the County to use for official law enforcement duties. He used his position as an elected official to receive a personal gain. Again, I brought this to SAO's attention, and have not heard back if they feel it is an audit issue or not. I had two potential frauds I learned about early on in February of 2002 and brought them to the attention of SAO as required by law, I am still waiting to hear if they looked into the frauds, or if they were considered to not be valid."

Although you do not mention them by name, you were obviously referring to my clients in this letter. It is also obvious that you are doing more than simply voicing an opinion. Instead, you are implying that you have personal knowledge of the facts asserted.

As you well know, your statements were false. Mr. Holman never purchased any heavy machinery without the prior approval of the Skamania County Commissioners. He certainly has never engaged in the deceptive behavior that you describe in your letter. Indeed, your allegations are so outrageous that Mr. Holman has no idea to what you are describing. He only knows that your e-mail has affected his reputation with the County Commissioners and others, and that he has been extremely disturbed by your spreading of these falsehoods.

Your statements about Sheriff Bryan are also false. Sheriff Bryan never violated the law by giving sick or annual leave to his employees. I assume you are referring to the pay out that was made to the former UnderSheriff Ed Powell upon his retirement from the County. Sheriff Bryan sought and obtained an opinion from the Prosecuting Attorney that these payments were legal and in accordance with the County's Personnel Policy. These payments did not constitute a violation of the law. Indeed, you were well aware of the Prosecuting Attorney's opinion before you sent your e-mail falsely accusing the Sheriff of misconduct.

Mr. Mike Garvison
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You also claimed that Sheriff Bryan threatened to assault you. This statement is also untrue. In fact, when the Columbian newspaper inquired about this allegation in the Fall of 2002, you specifically denied that Sheriff Bryan had ever threatened you. You specifically said that no such thing had occurred and wondered how such a rumor could have ever been started. This begs the question: Were you lying then or were you lying in your January 6th e-mail? In any event, Sheriff Bryan never threatened to cause you bodily harm.

Finally, Sheriff Bryan never used his office to secure a special deal on the purchase of a personal watercraft. Despite your best efforts to have the Sheriff condemned, the State Auditor's office declined to find any impropriety. You knew of this exoneration and that Sheriff Bryan had done nothing illegal or inappropriate when you wrote your January 6th letter.

In light of your obvious history and personal animosity towards Sheriff Bryan and Mr. Holman, I know that I can prove that you made these statements with actual malice. You either knew that the statements were false or had a reckless disregard for the truth or falsity of these statements.

Your false statements have disparaged my clients' personal, social and business reputations. Your conduct has also caused my clients mental distress. Accordingly, my clients have requested that I initiate a lawsuit against you for defamation and the invasion of their privacy (i.e. placing another in a false light). If a lawsuit becomes necessary, I will also determine what other causes of actions are available. In any event, my clients will be entitled to recover actual damages and/or emotional distress.

Sheriff Bryan and Mr. Holman are former and current public officials of Skamania County. As a result, they feel a certain allegiance to the taxpayers of the County. In their view, your statements were outside the scope of your official duties as the Skamania County Auditor. They therefore feel that you, and not the citizens of Skamania County, should be held accountable for your tortuous conduct. No public money should be spent to defend your ill-advised remarks.

At this point, Sheriff Bryan and Mr. Holman have no plans to seek damages from Skamania County. If a lawsuit becomes necessary, they will name you in your individual capacity. On the other hand, depending upon your response, my clients certainly reserve the right to change their position to fully protect their legal interests.

In sum, you and you alone acted with the intent to harm my clients' reputations by misstating the truth in your January 6th letter. Your conduct has caused my clients to suffer damages. You, and not the citizens of Skamania County, should be held accountable.

By way of settlement, my clients hereby offer to not pursue legal action against you (and will execute a Release of All Claims) in return for your agreement to:

1. Retract the false statements contained in your January 6 letter by communicating this retraction to all of those who received or heard about the defamatory statements contained in that letter;


Mr. Mike Garvison
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2. Sign a letter of apology as mutually agreed which includes a statement of retraction;
3. Reimbursement of my clients' attorney fees (which are currently less than \$2,500.00); and
4. Not to require any public funds to be used to settle this case, and to reimburse the public for any of your costs associated with defending this matter.

This offer to settle will expire unless accepted in writing at my office on or before August 15, 2003. If you reject this offer, my clients have requested me to immediately initiate a lawsuit against you in the Skamania County Superior Court.

I look forward to your response and would encourage you or your attorney to contact me.

Very truly yours,


Kenneth B. Woodrich

KBW:krf

cc: Charles Bryan
Brent Holman