

Executive Summary and Staff Analysis
District and Municipal Court Judges' Association (DMCJA);
Sam Meyer; Brett Buckley; and Thurston County
Complaint Tracking No. T14-107

This summary highlights staff's findings, conclusions, and recommendations regarding the allegations contained in a 45-day citizen action letter (complaint) filed on May 20, 2014 by Arthur West against the District and Municipal Court Judges' Association (DMCJA); Thurston County District Court Judges Sam Meyer and Brett Buckley; and Thurston County. The complaint was filed with the Washington Attorney General's Office (AGO) and the Thurston County Prosecuting Attorney's Office, and referred to the PDC by the AGO for investigation and possible action.

Allegations

Mr. West's complaint alleged that Sam Meyer, Brett Buckley, the DMCJA and Thurston County failed to register and report lobbying expenses related to activities undertaken by Judge Meyer and Judge Buckley during the 2012 and 2013 legislative sessions. He alleged that DMCJA directed Sam Meyer and Brett Buckley to lobby for the association, and then reimbursed Thurston County for its expenses in hiring pro-tem judges to serve in their place while they lobbied. He characterized the Thurston County's and DMCJA's expenses as unlawful lobbying expenditures and misappropriations of public funds.

Applicable Statutes

RCW 42.17A.635 authorizes agencies to expend public funds to lobby state legislation or rules, with certain limitations, and provides for the disclosure of lobbying expenditures in PDC filings. Certain lobbying, including in-person lobbying by elected officials, is exempt from the reporting requirement. Per the Commission's rules, agencies comply with RCW 42.17A.635 by filing the L-5 Lobbying by State and Local Government Agencies form.

RCW 42.17A.600 and **RCW 42.17A.615** require registration and reporting by private-sector lobbyists. Per the Commission's rules, the L-1 Lobbyist Registration and L-2 Lobbyist Monthly Expense Report are used to comply with RCW 42.17A.600 and RCW 42.17A.615.

RCW 42.17A.610 exempts certain lobbying from the registration and reporting requirements of RCW 42.17A.600 and RCW 42.17A.615, including 1) lobbying that is limited to testifying before public sessions of committees of the legislature, or public hearings of state agencies, 2) lobbying that, in addition to the public appearances described above, occurs on no more than four days or parts of days in any three-month period, and involves expenditures of no more than \$25 for or on behalf of state officials during the same period, and 3) uncompensated lobbying that involves no expenditures for or on behalf of state officials.

Investigative Findings

- In response to the complaint, Judge David Svaren, immediate past president of DMCJA, stated that DMCJA is not a public agency, but an association of judges organized under RCW 3.70 and registered as a non-profit corporation with the Washington Secretary of State. Judge Svaren stated that Judge Sam Meyer and Judge Brett Buckley are members of the DMCJA's legislative committee, with Judge Meyer serving as its chair. He stated that neither judge is compensated for his efforts on behalf of the association, including for his contact with members of the legislature. Judge Svaren stated that both judges are often able to arrange their schedules so that they can testify before hearings of the legislature without requiring pro tem judicial coverage; however, on occasion, a pro tem judge is required to handle the judges' cases in Thurston County District Court while the judge testifies. He stated that on such occasions, DMCJA provides reimbursement to the court for expenses it incurs for pro tem judicial coverage.
- In his response to the complaint, Judge David Svaren stated that DMCJA's lobbying activity was on behalf of the association, and had no relationship with Thurston County. In a separate response to the complaint, Thurston County Prosecuting Attorney Jon Tunheim concurred with Judge Svaren's response.
- Enclosed with Mr. West's citizen action complaint was a March 26, 2013 letter from Judge Sara Derr on behalf of DMCJA. In her letter, Judge Derr described DMCJA's reimbursements for pro tem judicial coverage for Judge Michelle Gehlsen, Judge Sam Meyer, and Judge Brett Buckley. The letter described one reimbursement on behalf of Judge Gehlsen, four reimbursements on behalf of Judge Meyer, and four reimbursements on behalf of Judge Buckley.
- The 2012 legislative session began on January 9, 2012. In separate responses to the complaint, Judge Sam Meyers and Judge Brett Buckley each stated that from that time to the present, in addition to their testimony before public sessions of the legislature, the judges had contact with state officials on no more than four days or parts of days in any three-month period, and made expenditures of no more than \$25 for or on behalf of state officials.
- DMCJA has a registered lobbyist, Melanie Stewart & Associates. Ms. Stewart's registration to lobby for the association during the 2012 legislative session was filed on January 18, 2011. Her current registration was filed on January 16, 2013. Ms. Stewart files monthly L-2 reports disclosing compensation and expenses incurred on behalf of DMCJA. With the exception of 2003 and 2005, DMCJA has filed L-3 Employer's Lobbying Expenses reports annually since

2001, disclosing the association's lobbying expenses incurred through Ms. Stewart or her firm.

Melanie Stewart & Associates was not named as a respondent in Mr. West's complaint, and the firm's compliance with applicable L-2 disclosure requirements was not an issue in the complaint. However, PDC staff has communicated to Ms. Stewart and to DMCJA legal counsel that, to the extent the association incurs expenses to allow its members to testify before public hearings of the legislature, the DMCJA's registered lobbyist is required to report those expenses on his or her monthly L-2 reports as an "other lobbying expense."

Conclusion

Staff's review of Arthur West's citizen action complaint and responses provided by DMCJA and Thurston County found that Thurston County did not make a prohibited expenditure for lobbying during the 2012 or 2013 legislative sessions. Rather, Thurston county engaged pro tem judicial coverage so that disruptions in staffing would not prevent court cases from being heard.

Staff's review found that during the 2012 and 2013 legislative sessions, Judge Sam Meyer and Judge Brett Buckley testified before public sessions of legislative committees but otherwise had contact with state officials on no more than four days or parts of days in any three-month period, and made expenditures of no more than \$25 for or on behalf of state officials. Accordingly, both judges were individually exempt from lobbyist registration and reporting requirements under the "casual lobbying" exemption in RCW 42.17A.610(5), and their activity did not require them to register or report as lobbyists on behalf of DMCJA.

Finally, staff's review found that DMCJA complied with applicable lobbyist registration and reporting requirements by filing joint L-1 registrations with Melanie Stewart & Associates, and disclosing compensation and expenses incurred for Ms. Stewart's services.

Recommendation

Based on the compliance of the named respondents with the requirements identified in the complaint, PDC staff recommends that the Commission:

- 1) Dismiss the allegations in the complaint against District and Municipal Court Judges' Association, Sam Meyer, Brett Buckley, and Thurston County; and

- 2) Recommend to the Attorney General and Prosecuting Attorney that no further action be taken.

May 20, 2014
RECEIVED
June 28, 2014
H.L.B.

**TO: ATTORNEY GENERAL BOB FERGUSON,
THURSTON COUNTY PROSECUTOR,
AND THE WASHINGTON STATE PUBLIC
DISCLOSURE COMMISSION**

2014 MAY 20 PM 12: 43

ATTORNEY GENERAL
OF WASHINGTON

**RE: CITIZEN'S ACTION LETTER RE UNLAWFUL
LOBBYING BY THE DMCJA, SAM MEYER,
AND THURSTON COUNTY**

**FROM: ARTHUR WEST
120 State Ave #1497
Olympia, WA. 98501**

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Public Disclosure Commission

COPY RECEIVED	
THURSTON COUNTY PROSECUTING ATTORNEY	
MAY 20 2014	
BY _____	TIME _____

Please consider this as a formal citizen's action letter under RCW 42.17.460 concerning the continuing unregistered lobbying activity and unreported lobbying expenditures by Sam Meyer, Brett Buckley, the Washington State District and Municipal Court Judges' Association and Thurston County.

The facts are as follows:

During the 2012-2013 legislative session the Washington State District and Municipal Court Judges Association, Sam Meyer, Brett Buckley and Thurston County colluded to make unlawful lobbying expenditures, misappropriate public funds, and engage in frequent, unreported, unlawful lobbying activity.

As testified to in open session by Sam Meyer, (while lobbying on behalf of the DMCJA) Thurston County unlawfully expended public funds to hire pro tem judges for the Thurston County District Court for the express purpose of allowing Sam Meyer to leave the bench to lobby the Legislature during business hours, while Meyer was employed full time as a Thurston County District Court Judge.

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Both Buckley and Meyer lobbied repeatedly during the session, apparently more than 4 times per month, often during regular business hours while employed full time as Thurston County judges, on behalf of the Association of Judges, with Thurston County paying their salaries and expending funds on pro tem judges to cover their lobbying related absences.

These expenditures were not authorized by law and were further not reported as legitimate lobbying expenditures. Nor were Judge Meyer or Judge Buckley registered as lobbyists for Thurston County or the DMCJA as required by RCW 42.17A.600. Nor were the DMCJA or Thurston County registered as lobbyist employers as required by State law.

As John Kingdon observes in *Agendas, Alternatives, and Public Policies*, (Boston: Little, Brown, 1984) ...judges cannot roam the corridors of Congress buttonholing members and pleading the case of the Courts.

This appears to be exactly what the DMCJA and Thurston County have improperly expended public funds to allow in regard to the lobbying activities of the Honorable Judges Buckley and Meyer.

In the absence of action on your part in 45 days, the complainant will submit a further 10 day letter and institute a citizen enforcement action.

Thank you for your consideration.


ARTHUR WEST

District and Municipal Court Judges' Association

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Public Disclosure Commission

President

JUDGE SARA B. DERR
Spokane County District Court
Public Safety Building
1100 W Mallon Avenue
Spokane, WA 99260-0150
(509) 477-2959

March 26, 2013

President-Elect

JUDGE DAVID A. SVAREN
Skagit County District Court
600 S 3rd Street
PO Box 340
Mount Vernon, WA 98273-0340
(360) 336-9319

Mr. Arthur West
120 State Ave NE #1497
Olympia, WA 98501

Re: Records Request

Vice-President

JUDGE VERONICA ALICEA-GALVAN
Des Moines Municipal Court
21630 11th Ave S Ste C
Des Moines, WA 98198
(206) 878-4597

Dear Mr. West:

I am writing to you in my capacity as president of the Washington State District and Municipal Court Judges Association (DMCJA). Past President Gregory Tripp received a forwarded email from you requesting certain records.

Secretary/Treasurer

JUDGE DAVID STEINER
King County District Court
585 112th Ave. S.E.
Bellevue, WA 98004
(206) 205-9200

Your email indicated that you were making a request for public records pursuant to Chapter 42.56 RCW, the Washington Public Records Act. As I am sure you are aware, it is settled law that the PRA does not apply to the judicial branch of government. Please see, Nast v. Michels, 107 Wash. 2d 300 (1986) and its progeny. More recently, the Supreme Court reiterated this holding and also applied it to records related to the administration of the judicial branch of government:

Past President

JUDGE GREGORY J. TRIPP
Spokane County District Court
Public Safety Building
1100 W Mallon Avenue
Spokane, WA 99260-0150
(509) 477-2965

More notably, the legislature has declined to modify the PRA's definitions of agency and public records in the 23 years since the Nast decision. This court presumes that the legislature is aware of judicial interpretations of its enactments and takes its failure to amend a statute following a judicial decision interpreting that statute to indicate legislative acquiescence in that decision. Soproni v. Polygon Apartment Partners, 137 Wash.2d 319, 327 n. 3, 971 P.2d 500 (1999). By not modifying the PRA's definition of agency to include the judiciary, the legislature has implicitly assented to our holding in Nast that the PRA does not apply to the judiciary and judicial records.

Board of Governors

JUDGE SANDRA L. ALLEN
Ruston/Milton Municipal Courts
(253) 759-8545

JUDGE JOSEPH M. BURROWES
Benton County District Court
(509) 7535-8476

JUDGE JEFFREY J. JAHNS
Kitsap County District Court
(360) 337-7033

JUDGE JUDY RAE JASPRICA
Pierce County District Court
(253) 798-3313

JUDGE MARY C. LOGAN
Spokane Municipal Court
(509) 622-4400

JUDGE G. SCOTT MARINELLA
Columbia County District Court
(509) 382-4812

JUDGE KELLEY C. OLWELL
Yakima Municipal Court
(509) 575-3050

City of Federal Way v. Koenig, 167 Wash.2d 341 (2009).

JUDGE REBECCA C. ROBERTSON
Federal Way Municipal Court
(253) 835-3000

The DMCJA is an association of judges of limited jurisdiction courts in the state of Washington. We have no employees and are funded by member dues. Pursuant to RCW 3.70.040, the DMCJA is required to:

COMMISSIONER PETE SMILEY
Bellingham Municipal Court
(360) 778-8150

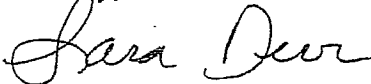
- (1) Continuously survey and study the operation of the courts served by its membership, the volume and condition of business of such courts, the methods of procedure therein, the work accomplished, and the character of the results;
- (2) Promulgate suggested rules for the administration of the courts of limited jurisdiction not inconsistent with the law or rules of the supreme court relating to such courts;
- (3) Report annually to the supreme court as well as the governor and the legislature on the condition of business in the courts of limited jurisdiction, including the association's recommendations as to needed changes in the organization, operation, judicial procedure, and laws or statutes implemented or enforced in these courts.

As this statute makes clear, the DMCJA is a part of the judicial branch of government in Washington State. Thus, the PRA does not apply to the DMCJA. For that reason we do not have any formal process for dealing with requests for information.

Nonetheless, we thank you for your interest in our association and would like to provide answers to the questions which seem to have spurred your interest. Judge Samuel Meyer is not a lobbyist; rather he chairs the Legislative Committee of the DMCJA. Melanie Stewart is a registered lobbyist for the DMCJA and has been paid \$35,000.00 this fiscal year (July 2012 to date). We have also reimbursed Ms. Stewart in the amount of \$626.01 for lobbying expenses during the same period. Pro tem reimbursements have been made for pro tem time for Judge Michelle Gehlsen, in the amount of \$227.50 (March 25, 2013); Judge Brett Buckley in the amounts of \$217.55 (August 2, 2012), \$135.96, \$54.38 and \$135.90 (March 25, 2013); and Judge Samuel Meyer in the amounts of \$136.00 (August 2, 2012), \$108.77, \$135.96 and \$108.77 (March 25, 2013).

Again, thank you for your interest in our association.

Sincerely,



Sara B. Derr
DMCJA President

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