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**Sent:** Monday, August 22, 2022 11:29 AM  
**To:** Cafazzo, Debbie (PDC) <[debbie.cafazzo@pdc.wa.gov](mailto:debbie.cafazzo@pdc.wa.gov)>  
**Subject:** Steve Finley Testimony

External Email

I am very disappointed your legislative agenda for 2023 does not include legislation **prohibiting non-government entities from issuing subpoenas in Public Disclosure Commission (PDC) cases or investigations.**

I discussed this issue with your executive director and in-house attorney several months ago. I believe not including this in your legislative agenda shows a complete disrespect for the people of the state of Washington.

Moreover, without this fix, there is a chill on the willingness of people to file complaints with the PDC because currently non-government entities are allowed to issue subpoenas and go on a fishing expedition without probable cause and without the approval of the PDC or a court!

In late 2021 a process server appeared at my door with a subpoena from a big Seattle law firm representing FedEx. The demand was onerous. It requested all my correspondence and emails with the PDC for the previous 16-17 years.

Here is some background for those who might not be familiar with the case. Prior to the 2019 general election, a Political Action Committee did a large Independent Expenditure (IE) mailing to voters on Mercer Island, and they did not file a C-6 as required by law. The mailing was printed and mailed by FedEx in Bellevue. I requested FedEx show me the records as they are required to do as a commercial advertiser. They refused. I contacted the PDC and the PDC staff reached out to FedEx. FedEx refused to provide the documents to the PDC. Therefore, I filed a complaint as PDC staff requested.

I thought this case was over and done. However, FedEx continued to fight with the PDC arguing they were not a commercial advertiser. No one from the PDC alerted me to the fact that this case was still active and that I would be receiving a subpoena.

When I received the subpoena, I called the PDC and asked the PDC how to get this subpoena quashed. They told me, we cannot function as your attorney. I then asked if others had received similar subpoenas in the past. They told me they were not aware of any. They suggested I do a public records request with the PDC and the Attorney General's office.

Fortunately, I have a friend who is on the board of the Washington Coalition for Open Government. He found a coalition attorney who was willing to represent me pro-bono because he understood allowing a subpoena to be issued by a non-government entity was dangerous to open government. He was successful and commissioner Downing limited the scope of my testimony to only the FedEx case. Had this attorney not been willing to take the case pro-bono, the cost to me would have cost thousands of dollars.

Soon thereafter, I received a document from my document request. It turned out that about 1-2 years earlier former state representative Chris Hurst received a similar subpoena that was just as onerous. Fortunately, he too had a lawyer who was willing to work pro-bono and he had the

subpoena limited. I find it amazing that no one at the PDC or the AGs office would tell me about the Hurst case. Why were countless hours wasted to fulfill my public disclosure request?

In May of this year, someone asked me to file a PDC complaint against an individual who controls several Political Action Committees who washes money through different committees and does not itemize his expenditures on C-4s. He lists large payments to credit card companies. I asked this person why he did not want to file the complaint and he said because this individual frequently files lawsuits. I declined because of my experience with the FedEx case.

I know of other complaints that should be filed with the PDC, but people are reluctant because of my experience. How many other complaints are not going to be filed because the person filing the complaint can be served with onerous subpoenas by non-government entities?

How would you feel if a process server showed up at your door with a fishing expedition subpoena from a law firm?

I think the legislative fix is very simple. Add language that says, subpoenas in PDC cases can ONLY be issued by the PDC or a superior court judge.

Until this legislative fix is adopted into law, to be respectful to citizens who file complaints with the PDC, you should include a warning on the complaint form: ***“The entity you are filing this complaint against can hire a law firm to subpoena years of your records without first obtaining the approval of the PDC or a court.”*** People should know the risks!

Please do not put other residents of the state of Washington through what me and Mr. Hurst had to go through!

Thank you.