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SUPERIOR COURT OF THE STATE OF WASHINGTON
THURSTON COUNTY

KENT L. and LINDA DAVIS, and SUSAN)
MAYER, derivatively on behalf of OLYMPIA)
FOOD COOPERATIVE,)
Plaintiffs,)

Case No. 11-2-01925-7

v.

DECLARATION OF JOHN
REGAN IN SUPPORT OF
DEFENDANTS' OPPOSITION
TO PLAINTIFFS' SECOND
MOTION TO COMPEL

GRACE COX; ROCHELLE GAUSE; ERIN)
GENIA; T.J. JOHNSON; JAYNE KASZYNSKI;))
JACKIE KRZYZEK; JESSICA LAING; RON)
LAVIGNE; HARRY LEVINE; ERIC MAPES;)
JOHN NASON; JOHN REGAN; ROB)
RICHARDS; JULIA SOKOLOFF; and)
JOELLEN REINECK WILHELM,)
Defendants.)

I, John Regan, declare as follows:

1. The statements in this declaration are made on my personal knowledge, and are true and correct to the best of my knowledge and understanding. I am competent to testify to them.

1 2. I am a defendant in this lawsuit.

2 3. I have been a member of the Co-op since July 2010. My family has been
3 shopping at the Co-op since 1992; I wasn't a member only because I didn't actually do the
4 shopping.

5 4. I was a member of the Board of Directors from January 2011 through
6 December 2014. I was not a member of the Board when the decision to boycott Israeli
7 products was made in July 2010; however, I was a Board member when the letter was
8 received from the plaintiffs' attorney threatening the filing of this lawsuit in May 2011,
9 and a Board member when the lawsuit was actually filed in September 2011.

10 5. The decisions of the Board on the multitude of issues which must be
11 decided involving policies, strategies and operation of the Olympia Food Co-op are always
12 made public. Our Board minutes reflecting those decisions as well as the underlying
13 discussion at Board meetings are posted on our website, and available to all of our
14 members. However, it is also critical that Board members be able to freely debate and
15 discuss these issues among themselves, as well as receive input from co-op staff and co-op
16 members. This is particularly true when, as in this case, the underlying issues involve
17 positions by the Board protected by the First Amendment.

18 6. The above concerns are true not only of the initial decision by the Board,
19 but also its discussions and deliberations regarding the fall-out from Board decisions. This
20 does not apply to discussions at Board meetings – those should of course be disclosed,
21 unless the Board is meeting in executive session. And it should again apply to post-
22 decision discussions with co-op staff and members regarding that fall-out.

23 7. In this case, after the Board made its decision regarding the boycott of

1 Israeli products sold by the co-op, there was substantial discussion about that decision
2 within the co-op and within the larger Olympia community. Many people supported the
3 decision; others opposed it. The Board understood and to a major extent embraced that
4 controversy. The Board organized a forum for co-op members held in August 2010. The
5 Board met with staff, and established a committee to discuss what happened and whether
6 to change the process for making boycott decisions. There were various events in Olympia
7 to discuss the boycott. At those events, speakers were invited from around the country.
8 One event involved a discussion with Marc Ellis, a Jewish theologian, who discussed the
9 issue at downtown meetings and on the campus of Evergreen State College.

10 8. I attended and even spoke at several of the events, in various downtown
11 Olympia locations and at the social hall of the Jewish temple in Olympia. I was running
12 for a position as a Board director speaking on a number of issues which faced the Co-op.
13 One of the issues I spoke in support of was the boycott decision.

14 9. Yet my willingness to openly discuss this issue with the community and
15 anyone outside of the Board changed dramatically when, after my election as a director in
16 the Board election at the end of 2010, I found myself first threatened with the filing of a
17 lawsuit, and then being a defendant in the lawsuit once it was filed in September 2011 even
18 though I had not been a director when the boycott decision was made. All of the Board's
19 efforts to work with staff and the community to discuss the boycott decision came to a
20 glaring halt. I was concerned that anything I said – to fellow Board members, to our staff,
21 to co-op members as a whole – could somehow adversely affect my position in the lawsuit
22 which had been filed against me.

23 10. What I have learned as a member of the Board of Directors over the years is

1 how important it is for Board members to be able to openly communicate with one
2 another, as well as with staff and the members of our co-op, in discussing co-op operations
3 and policies. If we have to be concerned that our non-public discussions, particularly
4 regarding issues of political import, will be disclosed to others, open and free discussion
5 and deliberations will be significantly and negatively impacted as would our ability to
6 carry out the co-op's mission. That will certainly be the result if the emails which
7 Plaintiffs seek --between Board members, between Board and staff, and between Board and
8 co-op members --are in fact disclosed to Plaintiffs.

9 11. The term of office for Directors is two years. I was re-elected in 2012.
10 However, because we have staggered terms, Board elections are held every year. I was
11 involved in trying to recruit new people to run for the Board in the elections at the end of
12 2011. I found it very difficult to do this because people understood if they were elected,
13 they would likely become defendants in this lawsuit even though they were not involved in
14 the initial boycott decision. That is just another example of the chilling effect of this
15 lawsuit.

16 I declare under penalty of perjury of the laws of the state of Washington that the
17 foregoing is true and correct.

18 DATED this 19 day of January, 2016 at Olympia, Washington.

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20 By _____


John Regan

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DECLARATION OF SERVICE

On January 20th, 2016, I caused to be served a true and correct copy of the foregoing document upon counsel of record, at the address stated below, via the method of service indicated:

Robert M. Sulkin	<input type="checkbox"/>	Via Messenger
Avi J. Lipman	<input type="checkbox"/>	Via U.S. Mail
McNaul Ebel Nawrot & Helgren PLLC	<input type="checkbox"/>	Via Overnight Delivery
600 University Street, Suite 2700	<input type="checkbox"/>	Via Facsimile
Seattle, WA 98101-3143	<input checked="" type="checkbox"/>	Via E-mail

I declare under penalty of perjury under the laws of the United States of America and the State of Washington that the foregoing is true and correct.

DATED this 20th day of January, 2016, at Seattle, Washington.

s/ Brooke E. Howlett
Brooke E. Howlett, WSBA #47899