

CITY OF SPOKANE ETHICS COMMISSION

ETHICS COMPLAINT FORM

Please review the City of Spokane's Code of Ethics – Chapter 1.04A SMC – before completing this complaint form. When you have completed this form, submit it to:

City of Spokane Ethics Commission
Attention: **Mike Piccolo**
Office of the City Attorney
5th Floor Municipal Building
W. 808 Spokane Falls Blvd.
Spokane, WA 99201

or at: cityattorneyinfo@spokanecity.org

****Please be advised that the completed complaint form is a public record pursuant to the Washington State Public Records Act, Chapter 42.56 RCW and will be filed with the City Clerk's Office, posted on the Ethics Commission's website and provided to the person who is the subject of the complaint as well as any other individual making request for a copy of the complaint. The Ethics Commission's review of the complaint will occur in a meeting open to the public. ****

Pursuant to the City of Spokane's Code of Ethics, I am filing a complaint regarding conduct which I believe constitutes a violation of the City's Code of Ethics.

Name, position, and department of person(s) I believe to have violated the Code of Ethics:

Name: **Jeff Gunn**

Position/Title: **Spokane City Council Legislative Assistant to Zack Zappone**

Nature of Code of Ethics violation:

What specific provision of SMC 1.04A.030 do you believe has been violated?

Section 01.04A.010 Purpose, Section 01.04A.030 Prohibited Conduct

Additional subsections as detailed in the attached.

Describe in as much detail as possible the alleged Code of Ethics violation conduct. Attach additional sheets of paper, if necessary. Please include all documentation you believe demonstrates a violation. Your description should include the date, location and frequency of the alleged violation.

Please refer to documentation as detailed in the attached.

Names and positions of the persons who may have witnessed the event:
Zack Zappone, City Council Member; Mark Carlos, Legislative Assistant
to Council Member Wilkerson, others as detailed in the attached.

Evidence or documentation

Please list any evidence or documentation that would support your allegation of a Code of Ethics violation. Indicate whether you can personally provide that information.

Please refer to documentation as detailed in the attached.

Complainant Declaration

I declare under penalty of perjury of the laws of the State of Washington that to the best of my knowledge, information, and belief formed after reasonable reflection, the information in the complaint is true and correct.



Complainant's Signature

May 31, 2023

Date

Date and Place (e.g. City, State)

Redistricting process 2022, Spokane, WA

Name (please print): **Neil Muller**

Address: **935 E 19th Ave, Spokane, WA 99203**

Phone Number(s): **509 220 9736**

E-Mail Address: **neilallenmuller@gmail.com**

May 31, 2023

Members of the Spokane, WA Ethics Commission,

I am a citizen of the City of Spokane and have resided here for 25 years. I live on the lower South Hill with my wife and children.

Last Summer and Fall, I became interested in the Spokane City Council redistricting process. What caught my attention was news reporting that Spokane City Council Member Zack Zappone was involving himself directly in the Spokane City Council district map drawing process.

At that time, I was concerned, but would not become fully disturbed by **Spokane City Council Legislative Assistant Jeff Gunn** who is the aide to Council Member Zack Zappone, until his activities were made public by Court-ordered subpoena.

As reported in The Spokesman-Review on April 6, 2023:

“**Gunn** in texts recommended that Zappone not highlight the fact that Thomas’ map made the fewest changes, because this might be appealing to the public.”

“He [Zappone] worked with **Gunn** and political allies, such as progressive political organization FUSE Washington employees Jim Dawson and Brian Parker, to drum up support for his map.”

As reported in The INLANDER on April 7, 2023:

“Behind the scenes, he and others strategized how to sell the map. Zappone’s legislative aide, **Jeff Gunn**, had written on Facebook messenger that most people would likely find a competing map that made “minimal changes” — the one the redistricting board recommended — the most appealing, so Zappone should promote his map with some “BS” about keeping neighborhoods together and giving part of downtown to each district.”

In fairness to Gunn, he deserves the opportunity to address these concerns.

I turn to you to help me, our fellow citizens and especially **Legislative Assistant Jeff Gunn** find closure on this important matter that goes to the heart of our society, the democratic fair election process, and the high ethical standards that we expect and deserve from our elected officials.

Thank you for volunteering your time and talents to this and all of the other matters that you address.

Gratefully,

A handwritten signature in blue ink, appearing to read "Neil Muller", is written over a horizontal line.

Neil Muller

Jurisdiction: City Official Status of the Respondent

Jeff Gunn is Legislative Assistant to Council Member Zack Zappone. According to the City of Spokane's website, his official email is: jgunn@spokanecity.org

Spokane Code of Ethics – SMC Section 01.04A.010 Purpose

- A. It is the policy of the City of Spokane to uphold, promote and demand the highest standards of ethics from all of its employees and City officers, whether elected, appointed or hired. City officers and employees shall maintain the utmost standards of responsibility, trustworthiness, integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants including the appearance of impropriety, and never use their City position, authority or resources for personal gain.
- B. It is the intent of the City Council that this chapter be reasonably construed to accomplish its purpose of protecting the public against decisions that are affected by undue influence, conflicts of interest or any other violation of this Code of Ethics. This Code of Ethics is supplemental to state law, including, but not limited to, chapter 42.20 RCW – Misconduct of Public Officers, chapter 42.23 RCW – Code of Ethics for Municipal Officers – Contract Interests, and chapter 42.36 RCW – Appearance of Fairness Doctrine.

Spokane Code of Ethics – SMC Section 01.04A.030 Prohibited Conduct

The following shall constitute a violation of this Code of Ethics:

- A. General Prohibition Against Conflicts of Interest.
In order to avoid becoming involved or implicated in a conflict of interest or impropriety, or an appearance of conflict of interest or impropriety, no current City officer or employee shall have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that might be seen as conflicting with the City officer or employee's proper discharge of his or her official duties, the conduct of official City business or as adverse to the interests of the City. Performance of a legally required duty by a City officer or employee shall not be considered a violation of the Code of Ethics.
 - 1. Any employee who becomes aware that he or she might have a potential conflict of interest that arises in the course of his or her official duties shall notify in writing his or her supervisor or appointing authority of the potential conflict.
 - 2. Upon receipt of such a notification, the supervisor or appointing authority shall take action to resolve the potential conflict of interest within a reasonable time, which may include, but is not limited to, designating an alternative employee to perform the duty that is involved in the potential conflict. The supervisor or appointing authority shall document the disposition of the potential conflict in writing in files maintained by the appointing authority. The supervisor or appointing authority may request an advisory opinion from the Ethics Commission before addressing and resolving of the potential conflict.

Overview of Complaint

Spokane City Council Legislative Assistant to Council Member Zack Zappone, Jeff Gunn is believed to have engaged in several activities during the City of Spokane 2022 redistricting process that violate the Spokane Code of Ethics purpose, policies and intents as cited above and those additional sections to be detailed in this complaint.

Specifically, and to quote the Spokane Ethics code, Aide Gunn appears to have acted in a manner that is irresponsible, untrustworthy, without integrity, untruthful, dishonest, unfair, and improper.

Furthermore, Gunn appears to have failed to protect the public as he used undue influence, created, perpetuated and failed to properly report and seek advisory guidance on conflicts of interest.

Gunn not only engages directly in using his position with City Council to forward his political/electoral agenda, those of his employer (Zappone) and political allies; **he revels in his nefarious activities in the most disrespectful and shameful manner.**

“In speaking with the community, I heard over and over again how important it was to them that we keep neighborhoods together and they all districts share a piece of downtown. What is important to you? Use your voice and let us know!”

“Some bs like that”

Jeff Gunn to Zack Zappone

10/1/22 7:56 a.m.

See attached, page 53

Likely Ethical Violations by Gunn Revealed in Court Proceedings

While members of the 2022 Spokane Redistricting Board and the general public expressed concerns regarding Council Member Zappone’s activities during the 2022 Spokane Redistricting process, clear evidence of Aide Jeff Gunn’s unethical behavior would not come to light until 2023 legal proceedings (Spokane Redistricting and Michael Brown, et al) in Spokane County Superior Court (“the Court”).

Attorney Mark Lamb submitted a declaration (hereafter referred to as “Lamb Decl.”) to the Court on April 3, 2023 (see attachment) that reveals communications during the 2022 Spokane Redistricting process by Council Member Zack Zappone, Legislative Assistant Jeff Gunn and another Spokane City Council Legislative Assistant, Mark Carlos, Aide to Council Member Betsy Wilkerson.

The Lamb declaration document contains the bulk of evidence presented for consideration by the Spokane Ethics Commission. The portions of Attorney Lamb’s declaration involving Jeff Gunn are attached to this complaint and referenced below.

<p>SMC 01.04A.010 A responsibility, integrity, trustworthiness, fairness, undue influence, conflicts of interest and appearance thereof</p> <p>- continues -</p>	<p><u>Lamb Decl. Pages 42-54.</u> Texting between Jeff Gunn, Zack Zappone and at times Andrew Mark aka Mark Carlos, Aide to Betsy Wilkerson. Not all exhibits have dates but those included are; 8/24/22, 8/20/22, 10/19/22, 10/1/22.</p> <p>Attached page 43, Jeff Gunn writes,</p> <p>“I think it makes sense to just add more districts. So split them. That way you never end up with a mike / Kate”</p> <p>- continues -</p>
---	--

<p>SMC 01.04A.030 Prohibited Conduct</p> <p>A. General Prohibition Against Conflicts of Interest.</p> <p>G. Personal Interest in Legislation Prohibited.</p> <p>K. Fair and Equitable Treatment.</p> <p>M. Aiding others prohibited.</p> <p>N. Commission of Acts of Moral Turpitude or Dishonesty Prohibited.</p>	<p><u>Lamb Decl. page 45</u>, Zack Zappone writes on 10/20/22,</p> <p>“Have you not seen the talking points?”</p> <p>Gunn replies,</p> <p>“I don’t think so”</p> <p>Gunn then posts “talking points” to Zappone that appear to be constructed to promote “Zack’s Map” and dissuade support from Map 1.</p> <p>At this point, following the chronology of the declaration as presented to the Court by Attorney Lamb, it is clear that Jeff Gunn realized or should have realized that he was participating in a conflict of interest.</p> <p>“Never end up with a mike / Kate” is Gunn’s reference presumably to former Council Member Mike Fagan and former Council Member Kate Burke who shared representation of Spokane Council District 1.</p> <p>Gunn forgets or ignores that he is a civil servant to the People of Spokane and no longer Zack Zappone’s campaign staffer (the Washington Public Disclosure Commission website reveals that Gunn was a paid staffer on Zappone’s 2021 campaign for Spokane City Council)</p> <p>Taxpayers are not providing a salary for Jeff Gunn to use his position to promote his political goals. If the voters choose “mike / Kate” that is their decision, not Jeff Gunn’s.</p> <p>In posting pro/anti-map talking points of a prescriptive nature, especially to his employer (Zack Zappone), Gunn continues to use his position in a manner that does not promote an academic approach to redistricting, but a purely political one.</p> <p>Political participation and strong opinions should be celebrated in our City. However, when on City time, these must be “checked” at the door.</p> <p>Spokane’s Code of Ethics requires in SMC Section 01.04A.030 A 1,</p> <p>“Any employee who becomes aware that he or she might have a potential conflict of interest that arises in the course of his or her official duties shall notify in writing his or her supervisor or appointing authority of the potential conflict”</p> <p>Jeff Gunn should provide the Ethics Commission a copy of his written notification to his supervisor, in this case Zappone, expressing the self-awareness that he is or might be treading into the realm of the unethical.</p> <p>This requirement of Jeff Gunn should be applied to the items to be further presented in this complaint.</p> <p>- continues -</p>
---	--

Attached page 50, responding to communications by Zack Zappone and Andrew Mark aka Mark Carlos involving their concerns about volunteer and appointed Spokane Redistricting Board Member Jennifer Thomas and citizens involved in the democratic process of redistricting, Jeff Gunn writes,

“They’re Gonzaga young republicans”

“Work on CMR campaign”

Once again, we see that Jeff Gunn is complicit in using taxpayer time and City resources for his personal political purposes.

Spokane’s Code of Ethics requires in SMC Section 01.04A.030 K,

“1. No City officer or employee shall knowingly use his or her office or position to secure personal benefit, gain or profit, or use position to secure special privileges or exceptions for himself/herself or for the benefit, gain or profits of any other persons.”

“3. No City officer or employee shall use City-owned vehicles, equipment, materials, money or property for personal or private convenience or profit. Use is restricted to such services as are available to the public generally, for the authorized conduct of official business (not personal use), and for such purposes and under such conditions as can be reasonably expected to be approved by City policies.”

Jeff Gunn uses City time, his office, and presumably City equipment (phone, computer). The personal benefit is the fulfillment of Jeff Gunn’s fixation on investigating people involved in a process with whom he disagrees.

Lamb Decl. 51-52, on 10/19/22 texting occurs between Zack Zappone, Jeff Gunn and Andrew Mark aka Mark Carlos.

This exchange is just days before the October 24, 2022 City Council meeting at which the Council would consider whether to adopt “Zack’s Map” and replace the volunteer citizen Redistricting Board unanimously approved “Map 1.”

At 9:42 a.m. Jeff Gunn writes,

“Getting some redistricting emails”

At this point in the redistricting process, the public input period as officially conducted by the City had ended. This is why the Ethics Commission may ask as to why two City Council staffers and one City Council Member (Gunn, Carlos, Zappone) were “getting some redistricting emails” and from whom.

While is it not uncommon or inappropriate for citizen groups to organize emailing campaigns to Council Members, this text exchange reveals likely coordination.

- continues -

At 1:15 p.m. Jeff Gunn writes,

“They need to send more emails so Zack can be like we have __ emails from community members in support”

“We want it to be more than the people who testified against it”

“So like if we can get 100 or something”

Zappone contributes, “245 signed”

Gunn replies,

“Need a firm email” “Form” “Oh nice there we go” “That’s solid”

Spokane’s Code of Ethics requires in SMC Section 01.04A.030 K,

“5. City Officers and employees are encouraged to participate in the political process on their own time and outside of the workplace by working on campaigns for the election of any person to any office or for the promotion of or opposition to any ballot proposition, but shall not use or authorize the use of City facilities or resources for such purposes except as authorized by the provisions of RCW 42.17A.555.”

The essence of the above subsection of our Spokane Ethics Code provides that elected officials and staff are encouraged to be involved in the political process, however with clear and critical caveats ... **“on their own time and outside the workplace” and “shall not use or authorize the use of facilities or resources.”**

RCW 42.17A.555 provides exceptions including open meeting actions, ballot measure statements at an open press conference, and **normal and regular conduct activities of the office**. The above activities are not normal conduct.

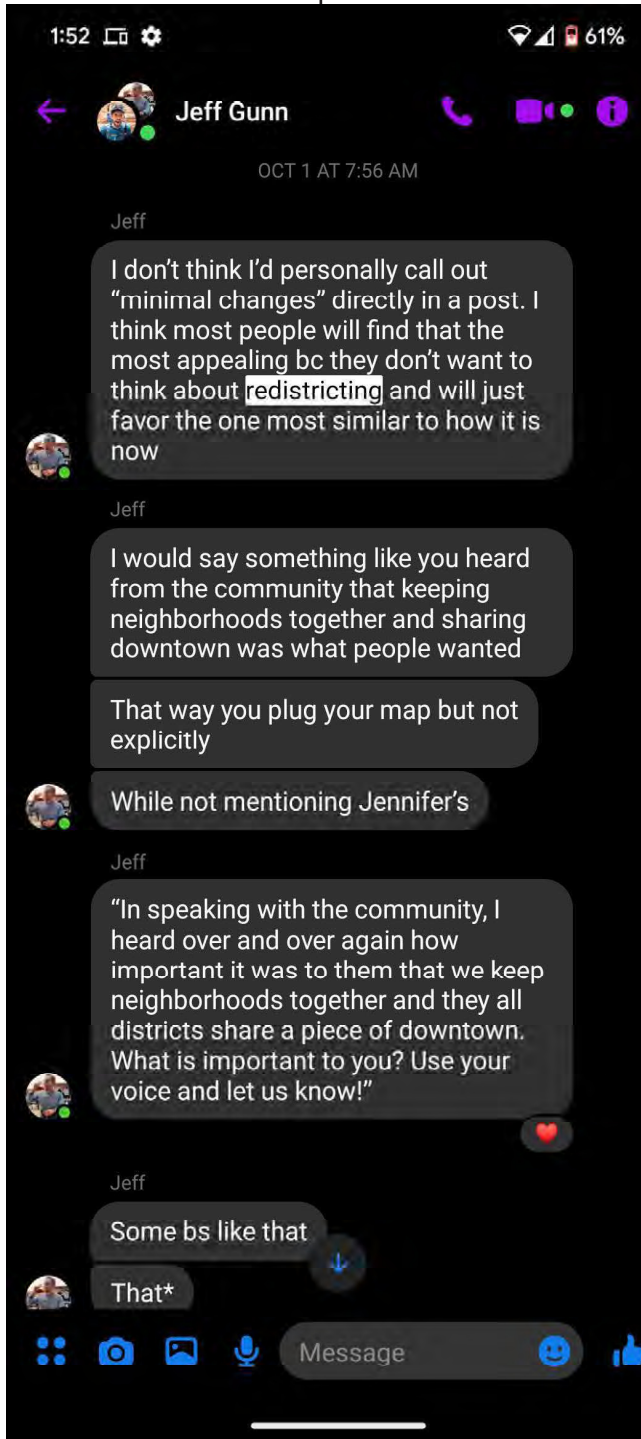
While the redistricting process was not to elect a person (directly) or to promote/oppose a ballot measure, **for all intents and purposes subsection K.5 applies to this event, especially when considered within the full context of our Ethics Code.**

Ethical lines were crossed when, in his official capacity and on City time, Council employee **Jeff Gunn appears to have actively engaged in the strategies and efforts of a citizen group that was organizing a lobbying effort to influence the outcome of a coming vote of Council.** How was Gunn involved?

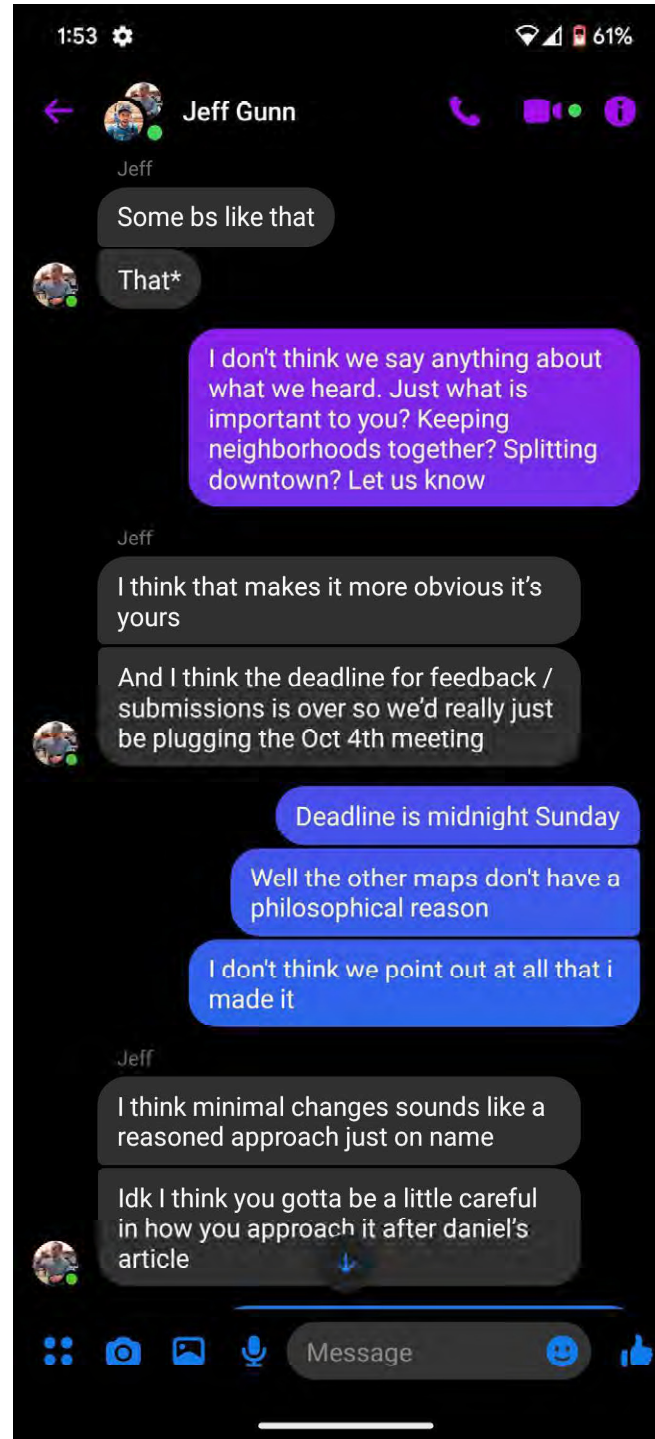
Not only did Gunn have the ability to monitor the efforts of the outside group, encourage them to “send more emails to Zack,” and review their technology apparatus “Need a firm email form ... there we go ... That’s solid”; **but he colludes with his employer (Zappone) and fellow Council staffer (Carlos) to utilize the contrived “public support” to skew decision architecture.**

- continues -

Lamb Decl. 53-54, on 10/1/22 texting occurs between Spokane Council Member Zack Zappone and his Council Legislative Assistant Jeff Gunn.



Declaration of M. Lamb Exhibits -



Declaration of M. Lamb Exhibits -

- continues -

	<p>While it is tempting to focus on City Council employee Jeff Gunn’s now infamous “Some bs like that” quip, there is more to address. However, I will share that I am as shocked and dismayed as anyone by this act of, at best irreverence, at worst contempt for we the citizens and the policy making process.</p> <p>Merriam-Webster defines moral turpitude as “an act or behavior that gravely violates the sentiment or accepted standard of the community.” Gunn has succeeded in achieving the epitome of that definition and violates Spokane’s Code of Ethics requires in SMC Section 01.04A.030 M:</p> <p>“Commission of Acts of Moral Turpitude or Dishonesty Prohibited. No City officer or employee shall commit any act of moral turpitude or dishonesty relating to his or her duties or position as a City officer or employee or arising from business with the City. Conviction of a felony or a misdemeanor involving moral turpitude or dishonesty, the nature of which demonstrates lack of fitness for the position held, shall be considered conclusive evidence of a violation of this Code of Ethics. Demonstrated acts of moral turpitude or dishonesty are not limited to felony or misdemeanor criminal convictions.”</p> <p>To read the content and flow of the above texting (see attached Lamb Decl. pages 53-54 for a larger print) between City Council Member and Staff is to witness not the slow erosion of ethics at City Council, but a landslide of behavior that mocks the fundamental tenets of our Ethics Code and societal values.</p> <p>- end section -</p>
--	---

In Summary & Conclusion

Again, I thank you for your volunteer service to our City. This is the last way that I wanted to spend my time or yours. However, Jeff Gunn’s conduct during the 2022 Spokane Redistricting process requires a full review for the benefit of our community, including City Council employee Jeff Gunn.

The following summarizes the likely violations of Ethics Code sections and subsections that are described in this complaint.

Section 01.04A.010 Purpose	To be applied throughout this complaint.
Section 01.04A.030 Prohibited Conduct	
A. General Prohibition Against Conflicts of Interest	To be applied throughout this complaint.
1. Duty to Notify Supervisor	To be applied throughout this complaint - documentation should be provided.
G. Personal Interest in Legislation Prohibited	Gunn’s actions which dismiss, accuse and maliciously investigate the public are inherently personal, to the benefit of his political interests. Gunn consistently injected his personal politics in the redistricting legislative process.

K. Fair and Equitable Treatment.	
1. Personal benefit, special privilege, exemptions	Personal benefit, see above G. Gunn used his special access through work relationships and private messaging to conceal political discussions at work, exempting him, or so he must have thought, from public disclosure.
3. Equipment for personal	Gunn either used public equipment for political purposes, or he used private equipment for public purposes.
5. Political on own time	Gunn made the public redistricting process political while at work.
M. Aiding others prohibited	Gunn colluded with Council Member Zappone and Legislative Assistant Mark Carlos.
N. Commission of Acts of Moral Turpitude or Dishonesty Prohibited	Gunn showed grievously unbecoming disrespect for constituents. See Section 01.04A.020 Definitions X.

I am greatly concerned that certain City Council Members and Staff are behaving more like a political campaign than public servants. Political agendas should be checked at the doors of City service.

The opportunity and teachable moments to recommit City Council staff to the letter and spirit of civil service is provided through this complaint process. I am available to further assist if you should request so.

HONORABLE TONY HAZEL

Hearing Date: April 7, 2023

Hearing Time: 1:30 p.m.

SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN THE COUNTY OF SPOKANE

IN RE: SPOKANE REDISTRICTING and
MICHAEL BROWN, REBECCA COOK,
COLIN COOK and MARK HOWARD, all
registered voters in the City of Spokane,
Petitioners,

NO. 22-2-04123-32

DECLARATION OF MARK C. LAMB
IN SUPPORT OF PETITIONERS'
MOTION TO GRANT PETITION FOR
SPOKANE REDISTRICTING

I, Mark C. Lamb, declare under penalty of perjury, under the laws of the State of Washington, that the following is true and correct.

1. I am over the age of 18, make this declaration based upon my personal knowledge, and am competent to testify on the matter stated herein.

2. I am one of the attorneys for Petitioners Michael Brown, Rebecca Cook, Colin Cook and Mark Howard herein.

3. Attached hereto as *Exhibit 1* is a true and correct copy of Z. Zappone's handwritten notes.

4. Attached hereto as *Exhibit 2* is a true and correct copy of email communications from October 2022.

5. Attached hereto as *Exhibit 3* is a true and correct copy of email communications from September 2022.

DECLARATION OF MARK LAMB IN SUPPORT OF
PETITIONERS' MOTION TO GRANT PETITION FOR
SPOKANE REDISTRICTING – 1

CARNEY BADLEY SPELLMAN, P.S.
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010
(206) 622-8020

1 6. Attached hereto as *Exhibit 4* is a true and correct copy of meeting minutes and
2 agenda.

3 7. Attached hereto as *Exhibit 5* is a true and correct copy of text communication
4 with Jeff Gunn.

5 8. Attached hereto as *Exhibit 6* is a true and correct copy of text communication
6 with Josh Walters.

7 9. Attached hereto as *Exhibit 7* is a true and correct copy of text communication
8 with Breean Beggs.
9

10 10. Attached hereto as *Exhibit 8* is a true and correct copy of text communication
11 with Betsy Wilkerson.

12 11. Attached hereto as *Exhibit 9* is a true and correct copy of text communication
13 with Brian Parker.

14 12. Attached hereto as *Exhibit 10* is a true and correct copy of text communication
15 with Daniel Walters.
16

17 13. Attached hereto as *Exhibit 11* is a true and correct copy of text communication
18 with Paul Jim.

19 14. Attached hereto as *Exhibit 12* is a true and correct copy of text communication
20 with Macklin Scheldrup.

21 15. Attached hereto as *Exhibit 13* is a true and correct copy of text communication
22 with Ryan Oelrich.
23

24 16. Attached hereto as *Exhibit 14* is a true and correct copy of miscellaneous text
25 communications.
26

1 DATED this 3rd day of April, 2023.

2 CARNEY BADLEY SPELLMAN, P.S.

3 By 

4 Mark C. Lamb, WSBA No. 30134

5 Kenneth W. Hart, WSBA #15511

6 Attorneys for Petitioners

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, not a party to nor interested in the above-entitled action, and competent to be a witness herein. On the date stated below, I caused to be served a true and correct copy of the foregoing document on the below-listed attorney(s) of record by the method(s) noted:

☒ Email and first-class United States mail, postage prepaid, to the following:

Attorneys for Non-parties Zack Zappone and Breean Beggs

Christopher J. Kerley, WSBA #16489

Evans, Craven & Lackie, P.S.

818 W. Riverside Ave., Ste. 250

Spokane, WA 99201

ckerley@ecl-law.com

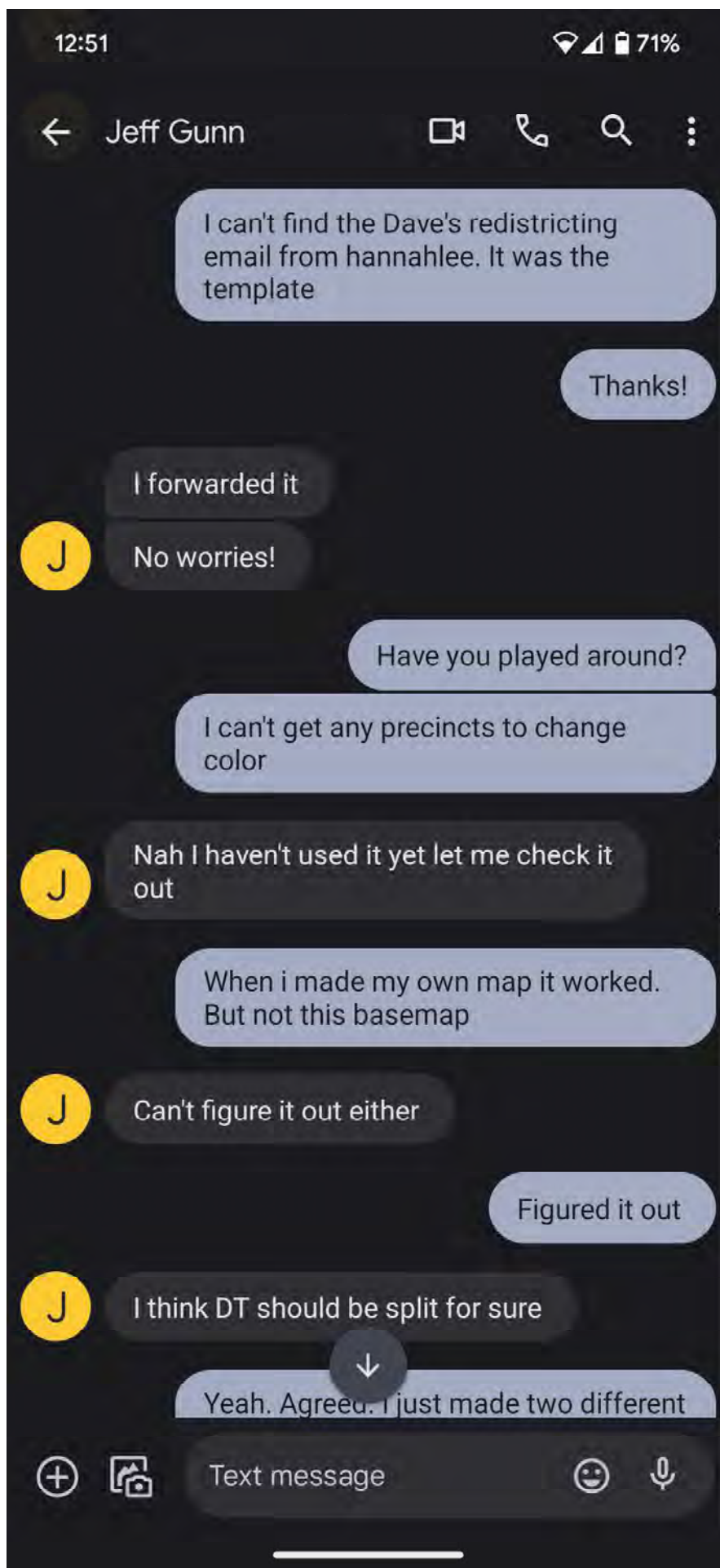
509-455-3632

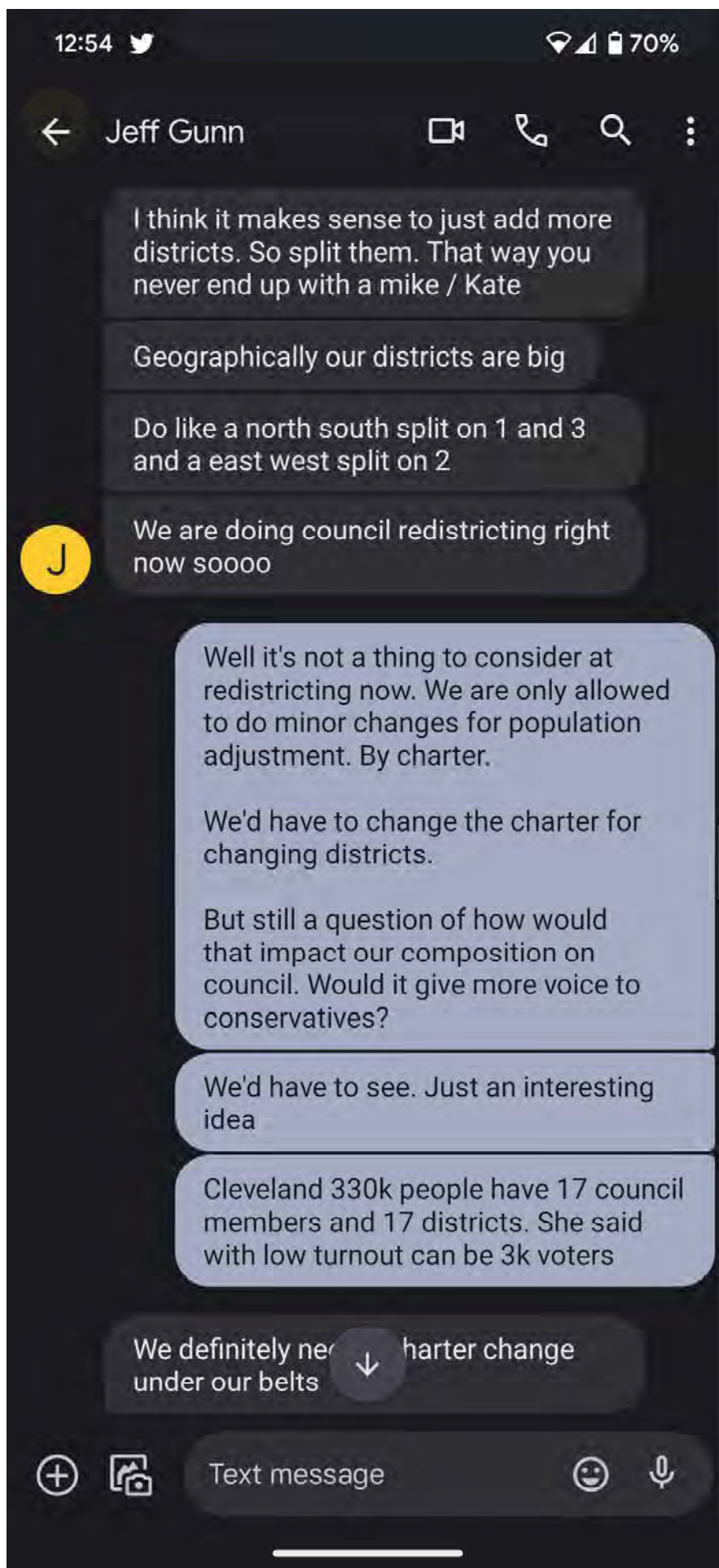
DATED this 3rd day of April, 2023.



Andrea H. Anthony, Legal Assistant

EXHIBIT 5





12:56

70%

← Jeff Gunn



Are you good if I work from home today? It doesn't seem like there's anything I need to be in person for

J

I might have to come in to be the second computer for the redistricting meeting but I'll touch base with hannahlee

No worries. Sounds good

Wednesday, Aug 24 • 11:04 AM

Can you call a constituent named Colette today around noon? She just has some questions / concerns about "spending". Was super specific to me on the phone but she seems nice and just wants to chat. 509 220 0239

J

Wasn't super specific *

Ok i can do that

J

Perfect

Wednesday, Aug 24 • 1:24 PM

Fiery talk with Colette. She says she will definitely be calling me in the future. She is a caller. lol



Text message



