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**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF WASHINGTON**

KATHY HAY, DAWNA LARSON,  
and LUCAS “BROOKLYN” ANDERSON,

Plaintiffs,

v.

ASOTIN COUNTY, WASHINGTON;  
ASOTIN COUNTY HEALTH DISTRICT;  
ASOTIN COUNTY BOARD OF HEALTH;  
JAMES JEFFORDS, in his official capacity  
as Chairman of the Asotin County Board of  
Commissioners and Chairman of the Asotin  
County Board of Health; ROBERT LUTZ,  
in his official capacity as the Local Health  
Officer of the Asotin County Health District;  
and JOHN WIESMAN in his official  
capacity as the Secretary of Health of the  
Washington State Department of Health,

Defendants.

No. \_\_\_\_\_

COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF

**COMPLAINT - 1**

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## INTRODUCTION

1. This civil-rights lawsuit challenges a policy that requires “little free pantries” on private residential property to follow regulations designed for institutional food banks and soup kitchens. Little free pantries are small structures that allow people to take or donate food as needed. They are part of a growing grassroots movement to help alleviate food insecurity.

2. Plaintiff Kathy Hay set up a “little free pantry” in her backyard to help her struggling neighbors in Clarkston, Washington. The pantry contained a variety of foods, including canned foods, dried pasta, fresh produce, and bread. Kathy hoped that her little free pantry would help feed those around her, as well as inspire her community to help fight hunger. The pantry was very popular, and for several weeks, her pantry helped dozens of low-income members of her community make ends meet, including Plaintiffs Dawna Larson and Lucas “Brooklyn” Anderson.

3. No one had an issue with the pantry, except the Asotin County Health District and Asotin County Board of Health. The County shut down Kathy’s pantry in February on the basis that it could cause foodborne illness. The County said Kathy could not reopen until she stopped sharing any food without tamper-evident packaging, including fresh produce and bread, and paid to undergo a burdensome permit process that is designed for institutional food banks and soup

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1 kitchens. The County also threatened Kathy with criminal prosecution if she  
2 refused to comply. Today, Kathy's pantry is still closed by order of the County.  
3 Meanwhile, Dawna and Brooklyn, as well as many other community members, are  
4 struggling to feed themselves.

5  
6 4. The County's policy violates Kathy's constitutional right to share and  
7 give away safe food on her own property, and it violates Dawna and Brooklyn's  
8 constitutional right to accept willing private charity. For that reason, Plaintiffs  
9 seek relief in this Court.

#### 10 JURISDICTION AND VENUE

11  
12 5. Plaintiffs Kathy Hay, Dawna Larson, and Brooklyn Anderson  
13 (together, "Plaintiffs") bring this civil-rights lawsuit under the U.S. Constitution;  
14 the Civil Rights Act of 1871, 42 U.S.C. § 1983; and the Declaratory Judgments  
15 Act, 28 U.S.C. §§ 2201–02.

16 6. Plaintiffs seek declaratory and injunctive relief against the County's  
17 policies and practices regarding little free pantries on private residential property  
18 and its enforcement of Washington Administrative Code §§ 246-215-01115(28)  
19 and 246-215-09400 to -09435, insofar as those regulations apply. Plaintiffs bring  
20 their claims under the Due Process and Equal Protection clauses of the U.S.  
21 Constitution.  
22

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1           7.     This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1343.

2           8.     Venue lies in this Court under 28 U.S.C. § 1391(b)(1)–(2).

3                                   **THE PARTIES**

4           9.     Plaintiff Kathy Hay is a citizen of the United States and a resident of  
5 the City of Clarkston in Asotin County, Washington.

6           10.    Plaintiff Dawna Larson is a citizen of the United States and a resident  
7 of the City of Lewiston in Nez Perce County, Idaho.

8           11.    Plaintiff Brooklyn Anderson is a citizen of the United States and a  
9 resident of the City of Clarkston in Asotin County, Washington.

10          12.    Defendant Asotin County is a political subdivision of the State of  
11 Washington.

12          13.    Defendant Asotin County Health District is the local health  
13 department in Asotin County. *See* RCW §§ 70.05.010, 70.46.031.

14          14.    Defendant Asotin County Board of Health is a local board of health.  
15 *See* RCW §§ 70.05.060, 70.46.060. The Board, through the Local Health Officer,  
16 enforces state statutes and regulations. *See* RCW § 70.05.060. It also has the  
17 authority to enact local rules and regulations and “provide for the enforcement  
18 thereof.” *Id.*

1           15. Defendant James Jeffords is the Chairman of both the Asotin County  
2 Board of Commissioners and the Asotin County Board of Health. *See* RCW  
3 §§ 36.32.005, 70.05.040, 70.46.031. As Chairman of both the Board of  
4 Commissioners and the Board of Health, he has the responsibility and practical  
5 ability to ensure that public-health laws, regulations, policies, and practices are  
6 implemented and administered in accordance with the U.S. Constitution.  
7 Chairman Jeffords is sued in his official capacity.  
8

9           16. Defendant Robert Lutz is the Local Health Officer for the Asotin  
10 County Health District. Health Officer Lutz enforces all public-health laws and  
11 regulations of the state and Asotin County. *See* RCW § 70.05.070. As Local  
12 Health Officer, he has the responsibility and practical ability to ensure that public-  
13 health laws, regulations, policies, and practices are implemented and administered  
14 in accordance with the U.S. Constitution. Health Officer Lutz is sued in his  
15 official capacity.  
16

17           17. Defendant John Wiesman is the Secretary of Health for the  
18 Washington State Department of Health. Secretary Wiesman enforces all state  
19 public-health laws and all rules, regulations, and orders. *See* RCW § 43.70.130.  
20 As Secretary of Health, he has the responsibility and practical ability to ensure that  
21 public-health laws, regulations, policies, and practices are implemented and  
22

1 administered in accordance with the U.S. Constitution. Secretary Wiesman is sued  
2 in his official capacity.

3  
4 **FACTUAL ALLEGATIONS**

5 18. Kathy Hay lives with her husband and three children in Clarkston,  
6 Washington. Her husband works as an electronics technician, and Kathy  
7 homeschools their three children and runs a small recycling business.

8 19. Kathy has struggled with food insecurity for most of her adult life.  
9 Like many in Clarkston and the surrounding area, she and her family sometimes  
10 struggle to make ends meet.

11 20. Many of the people living in the Lewiston–Clarkston Valley are poor  
12 and often cannot provide enough food for themselves and their families.  
13 According to the most recent data from the U.S. Census Bureau, Clarkston has a  
14 population of about 7,400. Nearly 15% of its residents are living below the  
15 poverty line, and 18.2% of its households receive SNAP benefits. It is a similar  
16 story just across the river in nearby Lewiston, Idaho.

17 21. People living above the poverty line can also experience “food  
18 insecurity,” or a lack of consistent access to enough food for an active, healthy  
19 lifestyle.  
20  
21  
22

1           22. Asotin County has a food bank that the locals may use. Although it  
2 provides a very important service to the community, it has a limited selection of  
3 food and limited operating hours. The food bank is open only on weekdays  
4 between 10 a.m. and 3 p.m., and each household may receive only pre-chosen food  
5 every two months, with a “commodity box” each month. While the food bank also  
6 places bread, produce, and other foods in the lobby for people to claim as needed,  
7 the foods are taken very quickly, leaving shelves that are usually bare except for  
8 overripe produce and stale bread.  
9

10           23. Though the food bank provides a valuable service, it cannot meet the  
11 entirety of the need for food in the area. In the days and weeks between boxes of  
12 food, families and individuals often struggle to afford enough food.  
13

14           24. In addition, many needy people in the area either do not own a car or  
15 cannot afford to pay for the gas to drive to the food bank.

16           25. There is also no anonymity for people who use food banks, and some  
17 people avoid the food bank because they are ashamed to ask for food.  
18  
19  
20  
21  
22

1           **A.     KATHY’S LITTLE FREE PANTRY**

2           26.     Kathy knows firsthand how difficult it is to worry about feeding  
3 herself and her family, and she is always brainstorming ways to help her  
4 community with food insecurity.

5  
6           27.     One day, in late 2019, Kathy found out about “little free pantries,” a  
7 grassroots movement that allows community members to take care of each other.  
8 Similar to “little free libraries,” little free pantries are small structures where  
9 people can take or donate food as needed on a daily basis. Over one thousand little  
10 free pantries have been established across the country to help provide food to  
11 people who need it.

12  
13          28.     On December 12, 2019, Kathy opened her own little free pantry in the  
14 backyard of her family’s home in Clarkston. Her backyard faces an alley, so  
15 people could easily access it.

16          29.     Kathy hoped that opening a little free pantry would help feed her  
17 neighbors and community members. She also hoped it would inspire a movement  
18 in her community to help each other with food insecurity.

19  
20          30.     Using materials donated by members of their community, Kathy and  
21 her family worked together to build and paint the pantry. The original pantry was  
22



1 a blue cabinet with shelves and doors lined with clear plastic, with a sign that said,  
2 “Take what you need, donate what you can.”

3 31. The pantry housed mainly canned goods and other shelf-stable foods.  
4 Kathy also had a section in the pantry for nonfood items, such as toilet paper,  
5 hygiene products, and shoes.  
6

7 32. A few days later, Kathy added a refrigerator so that people could  
8 donate milk, meat, cheese, eggs, and other fresh and frozen foods.

9 33. Below is a photograph of Kathy’s pantry, taken on December 16,  
10 2019:



19 34. Kathy did not set any rules for the types of food that people could  
20 donate, but she inspected the pantry at least once a day and threw out any donated  
21 food that she would not feed to her own family.  
22

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1           35. In contrast to food banks, Kathy's little free pantry had no limit on the  
2 amount of food that people could take, and it had no closing times. It also allowed  
3 people to take food anonymously.

4           36. Kathy's pantry took off immediately. For two weeks, people drawn to  
5 the pantry by word of mouth and Kathy's public Facebook page donated and took  
6 food. Two of those people were Plaintiffs Dawna Larson and Brooklyn Anderson.  
7

8           37. Dawna is a resident of Lewiston, Idaho. She used Kathy's little free  
9 pantry to help feed herself and her elderly wheelchair-bound father. Her father has  
10 a number of health issues, so Dawna recently had to quit her job to work as a full-  
11 time caretaker for him. As a result, she relies on his social-security benefits and  
12 food donations to make ends meet.  
13

14           38. When Kathy's little free pantry was open, Dawna visited almost every  
15 day. It was always the first place that Dawna visited for high-quality food and  
16 household items. According to Dawna, Kathy's little free pantry was "a real  
17 blessing" to her and her father.  
18

19           39. Plaintiff Brooklyn Anderson lives in Clarkston. When Brooklyn was  
20 younger, she lived with her grandparents and also spent some time in foster care.  
21 After she turned 18, she lived in and out of homelessness. Now 21, she couch  
22

1 surfs at the homes of friends and family. Brooklyn has severe medical disabilities  
2 that prevent her from working.

3 40. Brooklyn began using Kathy's little free pantry as soon as it opened.  
4 Brooklyn visits the local food bank, but she has struggled to find enough food  
5 between the times she is allowed to receive food boxes from the food bank. She  
6 relied on Kathy's pantry, in Brooklyn's words, "to pick up the slack." Brooklyn  
7 also does not own a car, so she cannot always depend on trips to the food bank to  
8 feed herself. Before Kathy's pantry opened, the lack of food available to Brooklyn  
9 meant that she sometimes went hungry or ate only junk food.  
10

11 41. Kathy estimates that the pantry was similarly helping at least a dozen  
12 people per day to combat food insecurity.  
13

14 42. None of Kathy's neighbors complained to her about the little free  
15 pantry.  
16

17 43. No one reported getting sick from any food taken from Kathy's  
18 pantry.  
19

20 **B. ASOTIN COUNTY DECIDES THAT LITTLE FREE PANTRIES REQUIRE**  
21 **REGULATION**  
22

44. Nevertheless, when word of Kathy's little free pantry reached the  
Asotin County Health District and the County Board of Health, they decided that

1 the little cupboard in her backyard could not contain food unless Kathy received a  
2 permit and followed other requirements.

3 45. Specifically, the County decided that little free pantries should be  
4 regulated as “Donated Food Distributing Organizations,” which is the designation  
5 for institutional food banks and soup kitchens under Washington’s Retail Food  
6 Code.  
7

### 8 **1. Washington’s Food Regulations**

9 46. Washington’s Retail Food Code regulates food establishments within  
10 the state.

11 47. A “food establishment” is “an operation that . . . provides food for  
12 human consumption” and “relinquishes possession of food to a consumer directly,  
13 or indirectly . . . .” WAC § 246-215-01115(48)(a).  
14

15 48. The Retail Food Code provides the minimum requirements governing  
16 food establishments in Washington.

17 49. Local boards of health have the authority to adopt “more stringent”  
18 requirements than those contained in the Retail Food Code. *Id.* § 246-215-  
19 01110(2). Where a local board of health adopts stricter rules, those rules apply.  
20  
21 *Id.*  
22

1           50. One type of food establishment regulated under the Retail Food Code  
2 is a “Donated Food Distributing Organization,” which the Code defines as a  
3 “charitable nonprofit organization under Section 501(c) of the federal Internal  
4 Revenue Code that distributes food free of charge to the needy.” *Id.* § 246-215-  
5 01115(28).  
6

7           51. The Retail Food Code subjects donated food distributing  
8 organizations to dozens of pages of regulatory requirements, including:

- 9           a. Verifying that it is a charitable organization under Section  
10           501(c) of the Internal Revenue Code, *see id.* § 246-215-  
11           01115(28);  
12  
13           b. Submitting an annual written plan detailing its operations, *see*  
14           *id.* § 246-215-09400(3)(a);  
15  
16           c. Having a commercial-grade kitchen (that cannot be in a private  
17           home), *e.g.*, *id.* §§ 246-215-01115(3), -09405, -09410; and  
18  
19           d. Complying with record-keeping requirements for donated food  
20           and its sources, *id.* § 246-215-09435.

21           52. The Retail Food Code does not mention or contemplate “little free  
22 pantries,” or similar structures where people can take or donate food as needed on  
a daily basis.

1           53.    However, the Retail Food Code exempts from regulation:

- 2           a.    A home or other location used for a private event, including  
3               meal clubs, *see id.* § 246-215-01115(48)(c)(xiii);  
4  
5           b.    A home or other location used for potlucks, *id.* § 246-215-  
6               01115(48)(c)(xv);  
7  
8           c.    A home that sells homemade baked goods for charity, *id.* § 246-  
9               215-01115(48)(c)(viii);  
10          d.    An establishment selling fresh produce and herbs, *id.* § 246-  
11               215-01115(48)(c)(ii); and  
12          e.    An establishment that offers only shelf-stable, commercially  
13               packaged food, *id.* § 246-215-01115(48)(c)(i) and (vi).

14          54.    None of these exempted activities is regulated by the State of  
15   Washington.

16          55.    The County has, however, decided to regulate little free pantries as  
17   donated food distributing organizations and subject them to state regulations and  
18   county policies.  
19  
20  
21  
22

1           **2. Asotin County’s Requirements for Little Free Pantries**

2           56. On December 30, 2019, at its monthly meeting, the Asotin County  
3 Board of Health discussed how “food pant[r]ies” were “sprouting up throughout  
4 the county and state” and “popping up in Clarkston.” Minutes at 4–5.  
5

6           57. A true and correct copy of the Minutes from the December 30, 2019  
7 Meeting of the Asotin County Board of Health is attached to this complaint as  
8 Exhibit A.

9           58. The minutes from the Board’s meeting acknowledge that the Asotin  
10 County Food Bank has “limited open hours,” that people cannot  
11 “anonymous[ly] . . . tak[e] food whenever needed” from a food bank, and that  
12 there is a “significant need” for other sources of food in the County. *Id.* at 4–5.  
13

14           59. In the face of this need, however, a member of the Board dismissed  
15 little free pantries as “feel-good philanthropy with no regard to public health.” *Id.*  
16 at 5.

17           60. The minutes indicate that the Board decided to regulate little free  
18 pantries as donated food distributing organizations under the Retail Food Code,  
19 and that the people in charge of little free pantries would need to submit a “plan  
20 review,” pay a fee, and comply with “requirements.” *Id.*  
21  
22

1           61. At the end of the discussion, the Board decided “to immediately shut  
2 down any pantry that has not submitted application, paid fee, and/or is not  
3 compliant.” *Id.* Defendant Lutz, the Health Officer, said that little free pantries  
4 could only stock “canned foods, diapers, wipes, [and] ziplock bags (with no  
5 food).” *Id.* Otherwise, Health Officer Lutz would “direct staff to shut them  
6 down.” *Id.*

8           62. The next day, on New Year’s Eve, D. Brady Woodbury and Sundie  
9 Hoffman, employees of the Asotin County Health District, came to Kathy’s house  
10 and instructed her to shut her pantry down. They cited food-safety concerns, even  
11 though there had been no complaints of sickness from the food in Kathy’s pantry.  
12

13           63. Kathy reluctantly complied and let the community know, through her  
14 Facebook page, that her little free pantry was closed.

15           64. Over the course of several conversations in the following days, Ms.  
16 Hoffman told Kathy that she could reopen her little free pantry only if she adhered  
17 to the County’s requirements. She ordered Kathy to elevate the pantry off the  
18 ground to address pest concerns. She also told Kathy that she must:  
19

- 20           a. Fill out a burdensome application to operate a donated food  
21           distributing organization, which requires Kathy to affirm that  
22           she is a 501(c) organization;



- b. Provide a “written plan” with the application for how she will ensure the safe operation of the pantry;
- c. Pay a \$60 administrative fee that would be required annually; and
- d. Allow only commercially sealed, shelf-stable foods with tamper-evident packaging in the pantry (presumably because Kathy does not have a commercial-grade kitchen).

65. A true and correct copy of the “Donated Food Distributing Organization Questionnaire” is attached to this complaint as Exhibit B.

66. Kathy reluctantly complied with some of these requirements. Kathy and her family spent about 40 hours building a new pantry, attaching it to a post, and cementing the post into the ground, in compliance with Ms. Hoffman’s instructions. Kathy received donations from the community to help with the new pantry and its installation.

67. Kathy also reluctantly removed the refrigerator, even though she believes people should be able to donate fresh food that might need refrigeration, such as milk, cheese, meat, and eggs.

68. However, Kathy did not submit an application to be a donated food distributing organization for three reasons. First, Kathy does not have a 501(c)

1 organization. Although Ms. Hoffman verbally told her she was not required to  
2 have one to operate her pantry, both the Retail Food Code, WAC § 246-215-  
3 01115(28), and the application form require her to have one before applying. The  
4 process for creating a 501(c) organization is difficult, extremely time consuming,  
5 and expensive to navigate, and Kathy cannot afford the time or money to pursue it.  
6 In addition, Kathy did not want to falsely affirm on the application that she has a  
7 501(c) organization.  
8

9 69. Second, Kathy did not think she should have to submit an annual  
10 “written plan” to the County before sharing food with others on her own property.  
11

12 70. Third, Kathy could not afford to pay the \$60 for the administrative fee  
13 every year.

14 71. In addition, Kathy did not comply with the County’s requirement that  
15 she limit the food in the pantry to only foods that had tamper-evident packaging.  
16 This requirement would exclude many important and healthy foods that do not  
17 require refrigeration like fresh produce and bread.  
18

### 19 **3. Kathy Reopens Her Little Free Pantry**

20 72. Kathy reopened her little free pantry with the new elevated cabinet on  
21 February 4, 2020.  
22

73. Below is a photograph of Kathy's little free pantry, before she reopened it, taken on February 1, 2020:



#### 4. Asotin County Shuts Down the Pantry Again

74. Two days later, Mr. Woodbury came to Kathy's house to close her pantry for the second time.

75. This time, Mr. Woodbury posted a public closure notice on the little free pantry.

76. Below is a photograph of Kathy's little free pantry with the posted closure notice, taken on February 6, 2020:



77. Kathy also received a notice letter from the Asotin County Health District, the Asotin County Board of Health, and Health Officer Lutz with the reasons for the closure.

78. The letter stated that Kathy could not “operate any food pantry until further notice.” It reiterated that Kathy needed to submit an application and administrative fee for the pantry, as well as limit the foods in the pantry to those that have tamper-evident packaging.

79. The letter also threatened that if Kathy reopened her pantry before complying with the County’s requirements, her actions would “result in the filing of an affidavit with the Asotin County Prosecuting Attorney’s Office, and may result in criminal charges and financial penalties.”

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1           80. Reopening her pantry without complying with the County's  
2 requirements could possibly even subject Kathy to up to 90 days in jail. WAC  
3 § 246-215-08600(1).

4           81. Finally, the County warned that, in addition to the \$60 administrative  
5 fee, Kathy would have to pay the County an "invoice" "for the additional time [it]  
6 spent following up with these violations of Health Officer and Board of Health  
7 orders" before reopening.

9           **C. THE CONSEQUENCES OF CLOSING THE PANTRY**

10          82. Many of the residents of Asotin County were outraged when the  
11 Board shut down Kathy's little free pantry.

12          83. Though the Board of Health realized how well-liked Kathy's pantry  
13 was, Chris Seubert, a County Commissioner and member of the Asotin County  
14 Board of Health, defended this "unpopular decision[]" as necessary "for the sake of  
15 public safety." See Kerri Sandaine, *Free Food Pantries Put on Hiatus in Asotin*  
16 *County*, Lewiston Tribune (Jan. 7, 2020), <https://tinyurl.com/rxu6bg4>.  
17

18          84. Plaintiffs Dawna Larson and Brooklyn Anderson have suffered as a  
19 result.  
20

21          85. Before it was closed, Kathy's little free pantry was Dawna's first stop  
22 almost every day for food before, in Dawna's words, "counting pennies at the

1 store.” Now that the County has shut it down, Dawna can no longer rely on the  
2 pantry to keep herself and her father fed.

3 86. Brooklyn also used the little free pantry several times per week to get  
4 food. Since it closed, Brooklyn cannot afford to buy healthy food.  
5

6 87. Now more than ever, with the global COVID-19 pandemic causing  
7 economic instability, people need a convenient and dependable source of free food.

8 88. During the COVID-19 pandemic, Kathy is willing to disinfect the  
9 food and pantry surfaces to keep her community safe and healthy.

10 89. Because of the Defendants’ actions, and despite the pressing need for  
11 donated food in her community, Kathy’s pantry remains closed.  
12

13 90. The County’s regulation of little free pantries on private residential  
14 property has violated Kathy, Dawna, and Brooklyn’s substantive-due-process and  
15 equal-protection rights.

16 **INJURY TO PLAINTIFFS**

17 91. Kathy wants to be able to provide needy people with fresh produce,  
18 bread, and other fresh food that does not require refrigeration rather than just food  
19 with tamper-evident packaging. But for the County’s ban on little free pantries  
20 having produce and foods lacking tamper-evident packaging, she would be able to  
21 share fresh food with her community.  
22

1           92. Dawna and Brooklyn want to have access to produce, bread, and other  
2 fresh food from Kathy's little free pantry. But for the County's ban on little free  
3 pantries having these foods, they would be able to supplement their meals with  
4 fresh, healthy foods.

5  
6           93. Kathy also does not have the time or the means to go through the  
7 burdensome process of creating an approved donated food distributing  
8 organization and complying with the requirements regulating those organizations.  
9 She cannot afford to pay a \$60 administrative fee every year, much less an invoice  
10 for the time that the County has spent trying to prevent her from serving the needy.  
11 Nor does she have the time, money, or expertise to undergo the complicated and  
12 burdensome process to create a 501(c) nonprofit organization. But for the  
13 County's requirement that Kathy and others like her must become donated food  
14 distributing organizations, Kathy would be able to use her pantry to feed people  
15 who would otherwise go hungry.  
16

17           94. But for the County's policy and practice of requiring Kathy to become  
18 a donated food distributing organization before reopening her pantry, Dawna and  
19 Brooklyn would be able to use Kathy's pantry to supplement their meals between  
20 trips to the food bank and spend their meager incomes on other things they need.  
21  
22

**CONSTITUTIONAL VIOLATIONS**

**Count I**

**Fourteenth Amendment to the U.S. Constitution  
(Violation of Kathy Hay's Right to Substantive Due Process)**

95. Plaintiffs adopt and reallege the allegations contained in all of the preceding paragraphs.

96. Defendants have violated Kathy's substantive due process right to share food with her community, including the needy. Defendants violated this right in two ways. First, Defendants banned Kathy's little free pantry from having fresh produce, bread, or any other food that lacks tamper-evident packaging. Second, they required her to become an approved donated food distributing organization before she could reopen her pantry. These requirements cannot survive constitutional scrutiny.

97. The due-process guarantee of the Fourteenth Amendment to the U.S. Constitution provides that no state shall "deprive any person of life, liberty, or property, without due process of law . . . ."

98. The Due Process Clause protects against state infringement of, among other things, those fundamental rights and liberties that are deeply rooted in our Nation's history and traditions and that are implicit in the concept of ordered



1 liberty. State action that infringes on fundamental rights is reviewed under strict  
2 scrutiny.

3 99. Community members, including Kathy, have a fundamental right to  
4 share food with their needy members of the community at their own homes. This  
5 right is deeply rooted in our Nation's history and traditions and implicit in the  
6 concept of ordered liberty.  
7

8 100. The right to share food is now more important than ever. In times of  
9 crisis, such as the COVID-19 pandemic, with all its economic consequences,  
10 people need to be able to share food with the needy.  
11

12 101. The Due Process Clause also protects non-fundamental rights and  
13 protects people from arbitrary, irrational, or unreasonable regulations.

14 102. As applied to community members sharing food at their own homes,  
15 Asotin County's policy and practice of banning little free pantries from having  
16 fresh produce, bread, and other foods that do not require refrigeration but lack  
17 tamper-evident packaging violates the fundamental right to share food at one's  
18 own home with needy members of the community. These bans cannot survive  
19 strict scrutiny. These bans are also arbitrary, irrational, unreasonable, and  
20 oppressive.  
21  
22

1           103. There is no compelling, substantial, important, or rational reason to  
2 ban little free pantries on residential property from sharing fresh produce, bread,  
3 and other foods that lack tamper-evident packaging.

4           104. Asotin County's ban on little free pantries on residential property  
5 sharing fresh produce, bread, and other foods that lack tamper-evident packaging is  
6 not necessary to achieve, narrowly tailored to, reasonably related to, or rationally  
7 related to any compelling, substantial, or legitimate governmental interest.

8           105. Asotin County's policy and practice of requiring little free pantries on  
9 private residential property to be donated food distributing organizations under  
10 WAC §§ 246-215-01115(28) and 246-215-09450 to -09435 also fails strict  
11 scrutiny. Donated food distributing organizations must be organized under section  
12 501(c) of the Internal Revenue Code, submit a burdensome application, including  
13 an annual written plan, comply with record-keeping requirements, and pay an  
14 annual \$60 administrative fee. These requirements violate the fundamental right to  
15 share food at one's own home with needy members of one's community. These  
16 requirements are also arbitrary, irrational, unreasonable, and oppressive.

17           106. As applied to community members sharing food through little free  
18 pantries at their own homes, the donated food distributing organization regulations,  
19 WAC §§ 246-215-01115(28) and 246-215-09400 to -09435, violate the  
20  
21  
22

1 fundamental right to share food at one's own home with needy members of one's  
2 community.

3 107. As applied to community members sharing food through little free  
4 pantries at their own homes, the donated food distributing organization regulations  
5 are also arbitrary, irrational, unreasonable, and oppressive.  
6

7 108. There is no compelling, substantial, or important reason for Kathy or  
8 others sharing food through little free pantries at their own homes to be an  
9 approved donated food distributing organization.

10 109. Requiring little free pantries on residential property to be approved  
11 donated food distributing organizations is not necessary to achieve, narrowly  
12 tailored to, reasonably related to, or rationally related to any compelling,  
13 substantial, or legitimate governmental interest.  
14

15 110. As applied to Kathy and other community members sharing food at  
16 their own homes, the County's policy and practice of banning fresh produce, bread,  
17 and other foods that lack tamper-evident packaging in little free pantries violates  
18 the right to due process guaranteed by the Fourteenth Amendment. As applied to  
19 Kathy and other community members sharing food through little free pantries at  
20 their own homes, the donated food distributing organization regulations also  
21 violate the due-process guarantee.  
22

**COMPLAINT - 27**

**INSTITUTE FOR JUSTICE**  
600 University Street, Suite 1730  
Seattle, WA 98101  
Tel. 206-957-1300 | Fax. 206-957-1301



1 could take food from her pantry, which meant that Kathy had to shut down her  
2 pantry. None of these requirements survives constitutional scrutiny.

3 114. Americans, especially needy people like Dawna and Brooklyn, have a  
4 fundamental right to accept food willingly given in charity. This right is deeply  
5 rooted in our Nation's history and traditions and implicit in the concept of ordered  
6 liberty.  
7

8 115. Asotin County's policy and practice of banning the receipt of fresh  
9 produce, bread, and other foods lacking tamper-evident packaging from little free  
10 pantries on residential property violates the fundamental right to accept food  
11 willingly given in charity. These bans cannot survive strict scrutiny. These bans  
12 are also arbitrary, irrational, unreasonable, and oppressive.  
13

14 116. There is no compelling, substantial, important, or rational reason to  
15 prevent someone from accepting fresh produce, bread, and other foods lacking  
16 tamper-evident packaging willingly given in charity from a little free pantry on  
17 residential property.  
18

19 117. Asotin County's ban on the receipt of fresh produce, bread, and other  
20 foods lacking tamper-evident packaging from little free pantries is not necessary to  
21 achieve, narrowly tailored to, reasonably related to, or rationally related to any  
22 compelling, substantial, or legitimate governmental interest.

1           118. Asotin County's policy and practice of requiring little free pantries on  
2 residential property to be donated food distributing organizations under WAC  
3 § 246-215-01115(28) also fails strict scrutiny. Donated food distributing  
4 organizations must be organized under section 501(c) of the Internal Revenue  
5 Code, submit a burdensome application, including an annual written plan, comply  
6 with record-keeping requirements, and pay an annual \$60 administrative fee.  
7 These requirements impede Kathy and others from sharing food through little free  
8 pantries, which in turn prevents the needy from accepting food that would  
9 otherwise be donated to them. The County's policy and practice thus violates the  
10 fundamental right to accept food willingly given in charity. The requirements are  
11 also arbitrary, irrational, unreasonable, and oppressive.  
12

13  
14           119. As applied to people taking donated food from little free pantries on  
15 private residential property, the donated food distributing organization regulations,  
16 WAC §§ 246-215-01115(28) and 246-215-09400 to -09435, violate the  
17 fundamental right to accept food willingly given in charity.  
18

19           120. As applied to people taking donated food from little free pantries on  
20 private residential property, the donated food distributing organization regulations  
21 are also arbitrary, irrational, unreasonable, and oppressive.  
22

1           121. There is no compelling, substantial, or important reason for Kathy or  
2 others sharing food through little free pantries at their own homes to be approved  
3 donated food distributing organizations before sharing food with people like  
4 Dawna and Brooklyn.

5  
6           122. Requiring little free pantries on residential property to be approved  
7 donated food distributing organizations is not necessary to achieve, narrowly  
8 tailored to, reasonably related to, or rationally related to any compelling,  
9 substantial, or legitimate governmental interest.

10           123. The County's policy and practice set forth above violates Dawna's  
11 and Brooklyn's right to due process guaranteed by the Fourteenth Amendment. As  
12 applied to people taking food from little free pantries on private residential  
13 property, the donated food distributing organization regulations also violate the  
14 due-process guarantee.

15  
16           124. Unless the County's policy and practice set forth above is declared  
17 unconstitutional and permanently enjoined as applied to people taking food from  
18 little free pantries on private residential property, and the donated food distributing  
19 organization regulations are declared unconstitutional and enjoined as applied to  
20 people taking food from little free pantries on private residential property,  
21 Plaintiffs will continue to suffer great and irreparable harm.  
22

**COMPLAINT - 31**

**INSTITUTE FOR JUSTICE**  
600 University Street, Suite 1730  
Seattle, WA 98101  
Tel. 206-957-1300 | Fax. 206-957-1301

**Count III**

**Fourteenth Amendment to the U.S. Constitution  
(Violation of Kathy Hay's Right to Equal Protection)**

125. Plaintiffs adopt and reallege the allegations contained in all of the preceding paragraphs.

126. Defendants have violated Kathy's right to equal protection under the law. To share food in her little free pantry, Kathy must follow Defendants' bans on fresh produce, bread, and foods lacking tamper-evident packaging and become a donated food distributing organization. Defendants' requirements treat Kathy differently from similarly situated people who are allowed, without regulation, to serve food at potlucks and private events, sell fruits and vegetables at produce stands, and bake goods for charity. Defendants' differential treatment does not survive constitutional scrutiny.

127. The Equal Protection Clause of the Fourteenth Amendment requires government officials to treat similarly situated individuals similarly.

128. When a government classification impinges on a fundamental right, that classification is subject to strict scrutiny. When it does not, the classification must be rationally related to a legitimate governmental purpose.

129. Washington's Retail Food Code provides for several exemptions, including a home or other location used for a private event, a home or other



1 location used for potlucks, a home that sells homemade baked goods (including  
2 bread) for charity, and an establishment selling fresh produce and herbs. WAC  
3 § 246-215-01115(48)(c). The County, though it has the authority to regulate these  
4 activities more strictly than the state, has either decided not to regulate these  
5 activities or decided to regulate them with comparatively minimal requirements.  
6

7 130. Those who provide food free of charge at a private event or potluck,  
8 or bake homemade goods for charity, or sell fresh produce and herbs are similarly  
9 situated to those who want to provide food free of charge on their own property  
10 through a little free pantry.  
11

12 131. Yet those who wish to provide fresh produce, bread, or other food that  
13 lacks tamper-evident packaging free of charge on their own property through a  
14 little free pantry are banned from doing so.

15 132. And those who wish to provide any food free of charge on their own  
16 property through a little free pantry are prohibited from doing so without becoming  
17 a donated food distributing organization.  
18

19 133. In distinguishing between people who provide food free of charge at a  
20 private event or potluck, or bake homemade goods for charity, or sell fresh produce  
21 and herbs, on one hand, and people who want to provide food free of charge at  
22

1 their homes through a little free pantry, on the other, Asotin County is violating the  
2 latter group's equal-protection rights.

3 134. There is no compelling, substantial, important, or rational reason for  
4 Asotin County to regulate more harshly people who want to provide food free of  
5 charge on their own property through a little free pantry than people who provide  
6 food free of charge at a private event or potluck, or bake homemade goods for  
7 charity, or sell fresh produce and herbs.  
8

9 135. More harshly regulating people who want to provide food free of  
10 charge on their own property through a little free pantry than people who provide  
11 food free of charge at a private event or potluck, or bake homemade goods for  
12 charity, or sell fresh produce and herbs is not necessary to achieve, narrowly  
13 tailored to, reasonably related to, or rationally related to any compelling,  
14 substantial, or legitimate governmental interest.  
15

16 136. The County's policy and practice set forth above violates Kathy's  
17 right to equal protection guaranteed by the Fourteenth Amendment. As applied to  
18 community members sharing food through little free pantries at their own homes,  
19 the donated food distributing organization regulations, WAC §§ 246-215-  
20 01115(28) and 246-215-09400 to -09435, also violate the equal-protection  
21 guarantee.  
22



1 stands, and charitable sales and events. Defendants' differential treatment of these  
2 groups of people does not survive constitutional scrutiny.

3 140. Those who are able to exercise their discretion to accept and choose  
4 which foods to eat at a private event, potluck, charitable event, or produce stand  
5 are similarly situated to people who want to be able to accept the food of their  
6 choice from a little free pantry.  
7

8 141. Yet those who wish to accept fresh produce, bread, and other foods  
9 lacking tamper-evident packaging given in charity from little free pantries are  
10 banned from doing so.  
11

12 142. And those who wish to accept any food given in charity from little  
13 free pantries may not do so unless the little free pantry is run as a donated food  
14 distributing organization.

15 143. Needy people, just like everyone else, should be allowed the dignity  
16 to choose for themselves what to eat or not eat.

17 144. In distinguishing between people who are able to exercise their  
18 discretion to choose which foods to eat at a private event, potluck, charitable event,  
19 or produce stand and people who want to be able to take the food of their choice  
20 from a little free pantry, Asotin County is burdening the latter group's equal-  
21 protection rights.  
22

1           145. There is no compelling, substantial, important, or rational reason for  
2 Asotin County to prevent people from both accepting food and exercising the  
3 choice of which food to eat from a little free pantry while allowing people to both  
4 accept food and choose which foods to eat at a private event, potluck, charitable  
5 event, or produce stand.  
6

7           146. Preventing people from accepting or choosing food from a little free  
8 pantry, while allowing people the discretion to accept and choose which foods to  
9 eat at a private event, potluck, charitable event, or produce stand, is not necessary  
10 to achieve, narrowly tailored to, reasonably related to, or rationally related to any  
11 compelling, substantial, or legitimate governmental interest.  
12

13           147. The County's policy and practice set forth above as applied to people  
14 taking food from little free pantries on private residential property violates  
15 Dawna's and Brooklyn's right to equal protection guaranteed by the Fourteenth  
16 Amendment. As applied to people taking food from little free pantries on private  
17 residential property, the donated food distributing organization regulations, WAC  
18 §§ 246-215-01115(28) and 246-215-09400 to -09435, also violate the equal-  
19 protection guarantee.  
20

21           148. Unless the County's policy and practice set forth above is declared  
22 unconstitutional and permanently enjoined as applied to people taking food from

1 little free pantries on private residential property, and the donated food distributing  
2 organization regulations are declared unconstitutional and enjoined as applied to  
3 people taking food from little free pantries on private residential property,  
4 Plaintiffs will continue to suffer great and irreparable harm.  
5

6 **PRAYER FOR RELIEF**

7 Plaintiffs respectfully request that the Court grant the following relief:

- 8 A. A declaratory judgment that, as applied to little free pantries on  
9 private residential property, Asotin County's policy and practice of (1)  
10 banning little food pantries from having fresh produce, bread, and  
11 other foods that do not require refrigeration but lack tamper-evident  
12 packaging, and (2) applying donated food distributing organization  
13 regulations, WAC §§ 246-215-01115(28) and 246-215-09400 to  
14 -09435, to little free pantries, violate the Due Process Clause of the  
15 Fourteenth Amendment to the U.S. Constitution;  
16  
17 B. A declaratory judgment that, as applied to little free pantries on  
18 private residential property, the donated food distributing organization  
19 regulations, WAC §§ 246-215-01115(28) and 246-215-09400 to  
20 -09435, violate the Due Process Clause of the Fourteenth Amendment  
21 to the U.S. Constitution;  
22

1 C. A declaratory judgment that, as applied to little free pantries on  
2 private residential property, Asotin County's policy and practice of (1)  
3 banning little free pantries from having fresh produce, bread, and  
4 other foods that do not require refrigeration but lack tamper-evident  
5 packaging, and (2) applying donated food distributing organization  
6 regulations, WAC §§ 246-215-01115(28) and 246-215-09400 to  
7 -09435, to little free pantries, despite the exemptions in WAC § 246-  
8 215-01115(48)(c), violate the Equal Protection Clause of the  
9 Fourteenth Amendment to the U.S. Constitution;  
10

11 D. A declaratory judgment that, as applied to little free pantries on  
12 private residential property, the donated food distributing organization  
13 regulations, WAC §§ 246-215-01115(28) and 246-215-09400 to  
14 -09435, violate the Equal Protection Clause of the Fourteenth  
15 Amendment to the U.S. Constitution;  
16

17 E. A preliminary and permanent injunction prohibiting Defendants from  
18 enforcing Asotin County's policy and practice of (1) preventing little  
19 free pantries on private residential property from having fresh  
20 produce, bread, and other foods that do not require refrigeration but  
21 lack tamper-evident packaging, and (2) applying donated food  
22

1 distributing organization regulations, WAC §§ 246-215-01115(28)  
2 and 246-215-09400 to -09435, to little free pantries on residential  
3 property;

4 F. \$1.00 in nominal damages for each and every violation of a provision  
5 of the U.S. Constitution;

6 G. A jury trial;

7 H. Reasonable costs and attorneys' fees; and

8 I. Such other legal or equitable relief as this Court may deem  
9 appropriate and just.  
10

11 Dated: April 16, 2020

Respectfully submitted,

12  
13 Erica Smith\*  
14 Caroline Grace Brothers\*  
15 INSTITUTE FOR JUSTICE  
16 901 North Glebe Road, Suite 900  
17 Arlington, VA 22203  
18 Phone: (703) 682-9320  
19 Facsimile: (703) 682-9321  
20 Email: esmith@ij.org;  
21 cgbrothers@ij.org  
22

s/ Michael Bindas  
Michael Bindas (WSBA No. 31590)  
INSTITUTE FOR JUSTICE  
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Seattle, WA 98101  
Phone: (206) 957-1300  
Facsimile: (206) 957-1301  
Email: mbindas@ij.org

*\*pro hac vice* motion to be filed



# EXHIBIT A



## Asotin County Public Health

PO Box 306 Asotin WA. 99402

Phone: 509.243.3344 Fax: 509.243.3345 www.asotincountypublichealth.org

Asotin County Local Board of Health Meeting

December 30, 2019 at 1:00 PM

## Asotin County Courthouse Annex Commissioners' Chambers

Present: Brian Shinn, Chris Seubert, Monika Lawrence (Vice Chair), Lori Loseth

Absent: Jim Jeffords (Chair), Skate Pierce

ACHD Staff: Dr. Robert Lutz, Brady Woodbury, Shannon Jones, Sundie Hoffman

Public:

The regular Board Meeting was called to order by Monika Lawrence 1:03 PM

Topic	Discussion	Action / Follow-up	Document																
Minutes Approval																			
Approval of the 11-25-2019 BOH minutes	<div>Brian Shinn</div> Moved to approve November 25, 2019 Meeting Minutes with following correction: Page 2 “han” should be hand under needle exchange section. <div>Chris Seubert</div> Seconded Motion passed Unanimously	Motion Passed																	
Financial Report																			
November 2019 Financials	<p>Actual November net revenue &lt;\$31,558&gt;, budgeted &lt;\$6,105&gt;, variance &lt;\$25,453&gt;. Year to date variance is only \$4,121.</p> <p>See Budget vs. Actual Recap for details by BARS code category and for year to date figures.</p> <p>Complete November Transaction Detail report provided to members of Board.</p> <p>NOTE: Public Health Educator paid retro to 1/1/19 for difference in Environmental Health Specialist &amp; Public Health Educator wages for 417.50 hours performing EHS task. Total payout for 10 months was \$901.99. L.Loseth asked if revising PHE job description might be necessary. Fiscal Administrator and Administrator stated that duties performed in Environmental Health are temporary while a suitable candidate is found for position.</p> <table><thead><tr><th colspan="2">FUND BALANCES</th></tr></thead><tbody><tr><td>Treasurer's Health District ER&amp;R (656.000)</td><td>\$18,218</td></tr><tr><td>Treasurer's Health District (657.000)</td><td>\$179,964</td></tr><tr><td>Treasurer's Health District Audit Acct (657.001)</td><td>\$24,900</td></tr><tr><td>Less Encumbered Leave Accrual Liability</td><td>(\$34,175)</td></tr><tr><td>Total Unencumbered Balances in Funds</td><td>\$188,907</td></tr><tr><td>Imprest Accounts (Expense, Sweep, Travel, Petty Cash)</td><td>\$50,364</td></tr><tr><td>Total Balance All Accounts</td><td>\$239,271</td></tr></tbody></table> <div>Brian Shinn</div> Moved to approve November 2019 Financials as presented. <div>Lori Loseth</div> Seconded Motion passed Unanimously	FUND BALANCES		Treasurer's Health District ER&R (656.000)	\$18,218	Treasurer's Health District (657.000)	\$179,964	Treasurer's Health District Audit Acct (657.001)	\$24,900	Less Encumbered Leave Accrual Liability	(\$34,175)	Total Unencumbered Balances in Funds	\$188,907	Imprest Accounts (Expense, Sweep, Travel, Petty Cash)	\$50,364	Total Balance All Accounts	\$239,271	Motion Passed	
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December 2019 Expense Voucher Approval	<p>In accordance with the adopted revised Purchasing Policy, Procedure &amp; Approval Process, the <b>December 2019</b> voucher/warrant packet # <b>APPKT02896</b>, Voucher # <b>234</b>, in the amount of <b>\$8,024.59</b>, as presented, is approved. Payment may be processed by the Asotin County Auditor's Office to replenish the Asotin County Public Health District's revolving Imprest Expense Account before the end of the month.</p> <p>Copy of Expense Voucher presented at Board meeting detailing all expenses included for reimbursement.</p> <p><b>Chris Seubert</b> Moved to approve the <b>December 2019</b> Expense Voucher as presented <b>Brian Shinn</b> Seconded Motion passed Unanimously No Further discussion</p>	Motion Passed	
November 2019 Payroll Expenses Approval	<p>In accordance with Chapter 42.24 RCW, the <b>November 2019</b> Draw Pay Register Packet <b>PYPKT02459</b> in the Employer Amount of <b>\$273.87</b>, and Payroll Detail Register Packet <b>PYPKT02470</b>, in the Employer amount of <b>\$32,034.02</b>, for a total Employer payroll amount of <b>\$32,307.89</b>. processed by the Asotin County Auditor's Office, based on approved time sheets entered into Tyler Tech Payroll Module by the Asotin County Public Health District's Fiscal Administrator, based on District's on-line electronic time sheets maintained daily by each employee and approved weekly by Supervisor(s) or Administrator, is approved.</p> <p>Detail Register Payroll Summary for draw pay and monthly payroll packets provided.</p> <p><b>Brian Shinn</b> Moved to approve the <b>November 2019</b> Payroll Detail Register Packet as noted above. <b>Lori Loseth</b> Seconded Motion passed Unanimously</p>	Motion Passed	
<b>Program Statistics</b>			
Agency Stats	<p>Agency program stats distributed to members of BOH.</p> <p>WIC numbers increased to 433 including satellite office caseload, 480 is goal. November and December pose challenges due to all of the holidays.</p> <p>Chlamydia and gonorrhea cases have gone up significantly. When we had nursing staff and a contract with North Central Health District, we were able to have affected people meet with a nurse who would educate client on risks and how to prevent spread of disease. Due to lack of funding and resources, the District's role now is entering case information into state system and report the data. This area is significantly underfunded.</p> <p>Food inspections and OSS are slower due to vacancy but literally all staff are working steadily to meet client needs. January permits will go way up due to the new year permitting requirements. Public Health Educator shared the challenges of serving as both the PHE and as an Environmental Health Specialist (Regulator). Trying to be a collaborating partner and a regulator can strain the relationship. This is especially true as it relates to schools and concessions.</p> <p>Concession stands tend to have various adults working with students but with no one really in charge. WA St will soon require a food inspection</p>		



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	<p>manager for concessions. The cafeteria manager would be a good fit, but right now no one is really taking ownership. A work-around could be to only serve pre-packaged items, but there still needs to be someone in charge.</p> <p>Briefly discussed about the increased costs for businesses including District fees, minimum wage &amp; payroll tax increases, and the combined fiscal impact causing some businesses to close, such as 410 Restaurant announcing closure.</p>		
<b>Unfinished Business</b>			
On-Site Future Issues and Plans	<p><b><u>Vacant Environmental Health Specialist position update:</u></b> 14 applicants from second round of advertising, since October 13, 2019. 3 potential candidates. 1 with designing of OSS, food, pool, and solid waste experience. Offer was made and declined; wife and daughter do not want to move.</p> <p>Position will be posted for a third round. Looking for candidate with experience in food program and trainable in on-site septic. Now that Administrator is certified in OSS, he can train new hire in OSS. There seems to be a level of respect towards Administrator serving as OSS inspector as one of the installers called Administrator to bounce an idea off of him. New hire can work under licensed OSS personnel for up to 2 years, but DOL won't allow person to take test until doing work for 4 years (relatively liberal rule).</p> <p><b><u>Fee Schedule:</u></b> The OSS Program Permit Fee schedule that the former EHS put together had some discrepancies: If the homeowner designs and installs their own system, there is a lot work involved by the District. If a licensed designer designs the system and the homeowner installs, it takes less work. Therefore, the fee for homeowner design &amp; install should be higher than a licensed designer / homeowner installs. The fee schedule did not represent this accurately, so the lower fee was being assessed on the homeowner designer/install. In addition, there was an error in the total on the printed forms. Issues have been remedied, and disseminated to staff, but there has been some pushback by Installers when correct fee applied.</p> <p><b><u>Columbia / Garfield Potential Contract:</u></b> Fiscal Administrator spoke with Columbia / Garfield Administrator and they currently contract with Walla Walla Health District for OSS &amp; Food programs but are interested in talking with us. Their contract with Walla Walla ended in November.</p> <p><b><u>Marina View Drive:</u></b> There is a small corner lot (approx. 12,000 sq ft), which is undersized for even the minimum 2-bedroom septic requirements. The owner called the District to make sure their property still met the requires with the new county setbacks. When Administrator reviewed the case, he discovered that the failed system that was approved by the former Environmental Health Specialist was approved for a 3-bedroom septic system and installed. No as-built was provided to the District. Administrator will not approve a 3-bedroom permit due to the size and layout of the lot, and homeowners are very upset and have stated that they are going to retain an attorney. The District should not have permitted a 3-bedroom and the designer, Lucky Ah Hi, should not have designed and/or installed such a system. A final permit</p>	Repost position	



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	<p>was never issued by the District due to not receiving an as-built. Administrator is trying to get a better idea of how they want to use the home to see if a 2 bedroom system would work, but they could not advertise/sell it as a 3 bedroom because OSS will not support it. Owners did try to do things right but technically they shouldn't be living in the home until a final permit is provided by District. A repair septic allows person to live in home, but with restricted / minimal use so tank doesn't overflow.</p> <p>This situation is a perfect example of why allowing installers to be the designers of the same system is a conflict of interest and violation of current state code. District can be stricter than state requirements, but should not be less restrictive, which is current practice. Per code, the ultimate person responsible for the OSS is the homeowner.</p> <p>B. Shinn asked if their intent of the lawsuit is for Administrator to approve the 3-bedroom build? Administrator said he believe that to be the case.</p> <p><u>SR 129 Extension:</u></p> <p>In 2018 a gentleman who has a lot of on-site septic training and experience, bought a piece of property in Anatone, applied for a permit for on OSS system, but never had one installed. The permit expires in June 2020. On the permit, the homeowner is identified as designer and installer. Now someone wants to buy the property and wants the permit to transfer to new homeowner.</p> <p>Red flags:</p> <ol style="list-style-type: none"><li>1) No soil evaluation was completed on the property, former EHS used the soil type on a lot much too far away.</li><li>2) The new purchaser does not have the same experience in OSS as the current owner. All parties changing requires new permit to be issued.</li></ol> <p>Administrator will not approve extension of current permit and will require a soil evaluation before permitting a plan.</p>		
Parking Lot Lease Agreement	Proposed Agreement still pending.		
Food Pantries	<p>Donated food organization distribution centers (i.e. food panties) are sprouting up throughout the county and state.</p> <p>Tina with the City of Asotin contacted S Hoffman, Interim Food Safety Specialist, seeking a permit for food pantry currently located on City property in front of City Hall. These panties require a plan review, paid fee, and meet requirements. S. Hoffman provided the necessary application, 501c3 'charity' requirements, a letter with requirements, application example of approval letter, and samples of what can and cannot go in pantry. In the meantime, it came out in the paper that the District is monitoring the pantry, which is not the case. Other panties are popping up in Clarkston causing great concern and immeasurable liability due to unsafe items being left for consumption, how food is stored, no rodent control, minimal or no monitoring, etc. S. Hoffman and Susan Shelton, State Food Safety Expert State viewed each food pantry and visited the food bank. The food bank has effective, efficient and compliant process, but have limited open hours. S Hoffman encouraged Tina to advocate for a food bank in Asotin. Tina indicated she wants anonymous delivery and taking of food whenever needed, and the food bank does not offer that. Tina claims to be monitoring pantry, but photos of items, taken by S. Hoffman &amp; S. Shelton show issues and items that should not be in pantry.</p>		



## Asotin County Public Health

PO Box 306 Asotin WA. 99402

Phone: 509.243.3344 Fax: 509.243.3345 [www.asotincountypublichealth.org](http://www.asotincountypublichealth.org)

	<p>L. Loseth stated the City Council supported the pantry due to the significant need. B. Shinn stated the onus is on the City of Asotin to work with the Health District and develop a plan that works for the community that is compliant with Health District and State requirements. B. Shinn said this is feel-good philanthropy with no regard to public health. It is being advertised as a City of Asotin pantry on City property and present a risk, C. Seubert agreed.</p> <p>Current pantries have not gone through proper plan review, have not paid fee, and are not compliant with requirements. Board's consensus is to immediately shut down any pantry that has not submitted application, paid fee, and/or is not compliant. Per Administrator, Dr. Lutz, Health Officer said that just canned foods, diapers, wipes, ziplock bags (with no food), would be supported. He said we have to follow the code and if the pantries are not following the code, as the Health Officer, he will direct staff to shut them down.</p>		
Dept of Ecology Solid Waste / Code Enforcement Officer Funding	Proposed Interlocal Agreement between District, Asotin Co Sherriff's Office, and Dept of Ecology Solid Waste grant to support Code Enforcement Officer time spent on District assigned solid waste cases, has been approved by Dept of Ecology, but is still pending Board approval. Administrator has not been able to connect with Sheriff to discuss Agreement. Item remains pending.	Administrator's review with Sheriff	
<b>New Business</b>			
<b>Announcements and Reports</b>			
Executive Session	None		
<b>Scheduled Meetings</b>			
January 27, 2020 Board of Health Meeting	Scheduled next meeting for January 27, 2020 at 1:00 PM, Commissioners' Chambers at Asotin County Annex.		
Meeting Adjournment	Chair adjourned meeting at 2:37 PM after all agenda items discussed.		

# EXHIBIT B



## Donated Food Distributing Organization (DFDO) Questionnaire

Our records indicate that your establishment may qualify as a Donated Food Distributing Organization (DFDO). This category allows qualifying non-profit organizations to operate exempt from permit. To qualify as a DFDO, an establishment must be a charitable non-profit organization under Section 501(c) of the federal Internal Revenue Code and must distribute all food free of charge to the needy.

Please complete this questionnaire and return it to our office with any required supplemental materials. If, after review, we determine that your organization qualifies as a DFDO, we will issue an approval letter notifying you of your exempt status. If this is your initial submittal, or there have been changes since your previous approval, the following items must accompany the questionnaire: 1) Floor plan showing all sinks and equipment; 2) Equipment list with make and model number for each item; and 3) Food menu with food preparation steps for all menu items.

**An administrative fee as approved by the Board of Health is required to process the questionnaire. Please include payment with this completed questionnaire of \$60.00**

Name of Establishment/Organization:	
Address:	
Contact person:	
Phone #:	
Email:	

Please provide the dates, times and locations of food preparation and service:
Please provide a description below and diagram on a separate piece of paper of your food distribution location
Please describe the population served by your establishment:
Please provide the source(s) of the food that is distributed:
Does your establishment charge for the food?
<input type="checkbox"/> No <input type="checkbox"/> Yes
Is your establishment a charitable non-profit organization under Section 501(c) of the federal Internal Revenue Code? (this is REQUIRED)
<input type="checkbox"/> Yes – attach supporting documentation.

By signing this form, you attest to the accuracy of the information provided, affirm that you will comply with WAC 246-215, and will allow Asotin County Public Health District access to the establishment and its records as specified in WAC 246-215.

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Date \_\_\_\_\_



## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

KATHY HAY, DAWNA LARSON, and BROOKLYN ANDERSON

(b) County of Residence of First Listed Plaintiff Asotin County

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Michael Bindas,  
Institute for Justice, 600 University Street, Suite 1730, Seattle, WA 98101  
(206) 957-1300; Erica Smith and Caroline Grace Brothers, Institute for  
Justice, 901 N. Glebe Rd, Suite 900, Arlington VA 22203 (703) 682-9320

**DEFENDANTS**ASOTIN COUNTY; ASOTIN COUNTY HEALTH DISTRICT; ASOTIN  
COUNTY BOARD OF HEALTH; JAMES JEFFORDS; ROBERT  
LUTZ; JOHN WIESMANCounty of Residence of First Listed Defendant Asotin County

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation - Transfer    ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
42 U.S.C. 1983Brief description of cause:  
Civil action for deprivation of rights**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes    ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

04/16/2020

SIGNATURE OF ATTORNEY OF RECORD

s/Michael Bindas

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

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UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff(s)*

v.

\_\_\_\_\_  
*Defendant(s)*

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Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

\_\_\_\_\_  
Date

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_ , a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

\_\_\_\_\_  
 Date

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

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UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff(s)*

v.

\_\_\_\_\_  
*Defendant(s)*

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Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

\_\_\_\_\_  
Date

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_ , a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

\_\_\_\_\_  
 Date

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

\_\_\_\_ District of \_\_\_\_

$$\begin{array}{c} ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \end{array}$$

Plaintiff(s)

V.

Civil Action No.

Defendant(s)

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_ , a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

\_\_\_\_\_  
 Date

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



AO 440 (Rev. 06/12) Summons in a Civil Action

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UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff(s)*

v.

\_\_\_\_\_  
*Defendant(s)*

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Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

\_\_\_\_\_  
Date

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_ , a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

\_\_\_\_\_  
 Date

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

\_\_\_\_ District of \_\_\_\_\_

$$\begin{array}{c} ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \end{array}$$

Plaintiff(s)

V.

Civil Action No.

Defendant(s)

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_ , a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

\_\_\_\_\_  
 Date

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

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UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff(s)*

v.

\_\_\_\_\_  
*Defendant(s)*

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)

Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

\_\_\_\_\_  
Date

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
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☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_ , a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

\_\_\_\_\_  
 Date

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: