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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR WHATCOM COUNTY**

TIM PAXTON, an individual,

Plaintiff,

vs.

WHATCOM COUNTY, a public agency;

Defendant.

No.

COMPLAINT FOR VIOLATIONS OF
THE OPEN PUBLIC MEETINGS
ACT, RCW ch. 42.30

Plaintiff alleges the following as his claims against the defendant:

I. PARTIES TO THIS ACTION

1. Plaintiff Tim Paxton is an individual and resides in Bellingham, Washington.
2. Defendant, Whatcom County (“County”), is a Washington county.
3. The County is a “public agency” as defined by RCW 42.30.020(1).
4. The Whatcom County Council is a “governing body” as defined by RCW 42.30.020(2).
5. All acts alleged herein occurred in Whatcom County, Washington.
6. Jurisdiction and venue are appropriate in the Whatcom County Superior Court pursuant to RCW 2.08.010 and RCW 42.30.120.

1 **II. FACTS RELEVANT TO CLAIMS**

2 7. The Whatcom County Council (“Council”) is the seven member legislative
3 branch of Whatcom County.

4 8. The Council is currently comprised of Carl Weimer, Pete Kremen, Barbara
5 Brenner, Bill Knutzen, Sam Crawford, Kathy Kershner, and Ken Mann.

6 9. In February of 2010, the Council consisted of Barbara Brenner, Sam Crawford,
7 Kathy Kershner, Bill Knutzen, Ken Mann, L. Ward Nelson, and Carl Weimer.

8 10. On February 18, 2010, Sam Crawford sent an email with his thoughts on issues
9 concerning Whatcom County—specifically concerning budgetary issues and the Superior
10 Court.

11 11. This email was sent to several individuals as well as to
12 “council@co.whatcom.us.”

13 12. Upon information and belief “council@co.whatcom.wa.us” sends email
14 accessible to all council members.

15 13. Ms. Brenner forwarded the email on February 19, 2010.

16 14. Ms. Brenner responded to the email on February 19, 2010.

17 15. Ms. Brenner’s response discussed what she perceived as her role as a council
18 member and funding of the superior court.

19 16. Ms. Brenner’s response was directed to “NHanson@co.whatcom.wa.us;
20 DBrown@co.whatcom.wa.us; lordward@aol.com; council@co.whatcom.wa.us;
21 BBGUN1010@aol.com; campfam@comcast.net; RCraven@co.whatcom.wa.us;
22 carlweimer@comcast.net; bill@cellularhero.com; ken.mann.whatcom@gmail.com;
23 KMann@co.whatcom.wa.us; BKnutzen@co.whatcom.wa.us; and
24

1 KKershner@co.whatcom.wa.us” and copied “PKremen@co.whatcom.wa.us;
2 DDesler@co.whatcom.wa.us” as well.

3 17. The emails listed in paragraph 16 include all members of the Council at the
4 time it was sent.

5 18. This email was also sent to the council as a whole through the inclusion of the
6 email address “council@co.whatcom.wa.us.”

7 19. Additionally, Ms. Brenner specifically sent the email to a quorum of the
8 Council.

9 20. The County, through the County Council, violated the OPMA by discussing
10 County business, to-wit Superior Court matters, in emails shared among all council members.

11 21. On September 28, 2010, Ken Mann sent an email to Barbara Brenner, Bill
12 Knutzen, Carl Weimer, Sam Crawford, Ward Nelson, Kathy Kershner, and Sam Crawford
13 concerning a public records request made by a constituent.

14 22. The September 28, 2010, email was also sent to Nadean Hanson and Dana
15 Brown-Davis.

16 23. The following day, September 29, 2010, Ms. Brenner responded to Ken Mann,
17 copying all other members of the council in addition to sending the email to the Council as a
18 whole via the “council@co.whatcom.wa.us” email address.

19 24. Ms. Brenner’s September 29, 2010, email discussed the public records request
20 at issue, the requestor, and the response to the request.

21 25. The September 29, 2010, email from Ms. Brenner concluded, stating “PS. This
22 is a public document.”

23 26. The County, through the County Council, violated the OPMA by discussing
24 funding of the superior court via emails shared among all council members.

