

Hearing date: _____
Hearing time: _____
Judge/Calendar:
Mary Sue Wilson / Civil

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

ARTHUR WEST,

Plaintiff,

v.

WASHINGTON STATE
REDISTRICTING COMMISSION,
BRADY WALKINSHAW, JOE FAIN,
APRIL SIMS, PAUL GRAVES, SARAH
AUGUSTINE, STATE OF
WASHINGTON,

Defendants.

No. 21-2-01949-34

ANSWER TO FIRST AMENDED
COMPLAINT

Defendants Washington State Redistricting Commission, Sarah Augustine, Joe Fain, Paul Graves, April Sims, and Brady Walkinshaw (collectively, the “Commission”) answer Plaintiff Arthur West’s First Amended Complaint for Violation of the Open Public Meetings Act (the “Complaint”) as follows:

I. INTRODUCTION

1.1 The allegations in Paragraph 1.1 constitute introductory language and legal conclusions to which no response is required. To the extent a response is required, the Commission denies the same.

1.2 Paragraph 1.2 consists of legal conclusions and argument to which no response is required. To the extent a response is required, the Commission denies the same.

1 1.3 Paragraph 1.3 consists of legal conclusions and argument, to which no response is
2 required. To the extent a response is required, the Commission denies Paragraph 1.3.

3 **II. PARTIES AND JURISDICTION**

4 2.1 Paragraph 2.1 consists of legal conclusions to which no response is required. To
5 the extent a response is required, the Commission denies Paragraph 2.1.

6 2.2 Paragraph 2.2 consists of legal conclusions to which no response is required. To
7 the extent a response is required, the Commission denies Paragraph 2.2.

8 2.3 The Commission admits that Brady Walkinshaw, Joe Fain, April Sims, and Paul
9 Graves (the “commissioners”) are the four voting members of the 2021 Washington State
10 Redistricting Commission and that Sarah Augustine (the “Chair”) is the non-voting chair and
11 fifth member of the Commission. The Commission further admits that footnote four quotes a
12 portion of RCW 44.05.080. The remaining allegations in Paragraph 2.3 consist of legal
13 conclusions to which no response is required. To the extent a response is required, the
14 Commission denies the same.

15 2.4 Paragraph 2.4 contains legal conclusions to which no response is required. To the
16 extent a response is required, the Commission denies Paragraph 2.4.

17 2.5 Paragraph 2.5 contains a legal conclusion to which no response is required. To the
18 extent a response is required, the Commission denies Paragraph 2.5.

19 2.6 Paragraph 2.6 contains a legal conclusion to which no response is required. To the
20 extent a response is required, the Commission denies Paragraph 2.6.

21 **III. ALLEGATIONS**

22 3.1 The Commission admits that it held a regular business meeting from
23 approximately 7:02 p.m. on Monday, November 15, 2021 to approximately 12:01 a.m. on
24

1 Tuesday, November 16, 2021. Except as expressly admitted above, the Commission denies any
2 remaining or inconsistent allegations in Paragraph 3.1.

3 3.2 The Commission admits that its meeting was live-streamed for public viewing on
4 TVW and YouTube. The Commission lacks sufficient knowledge and information to form a
5 belief as to the truth of the remaining allegations in Paragraph 3.2, and therefore denies the same.
6

7 3.3 The Commission admits that the commissioners participated in the public meeting
8 for a total of approximately 31 minutes. During the periods when the commissioners were not in
9 the public meeting, they met in two-commissioner “dyads.” The remaining allegations in
10 Paragraph 3.3 consist of legal conclusions to which no response is required. To the extent a
11 response is required, the Commission denies the same.

12 3.4 The Commission admits that the TVW and YouTube broadcasts of its meeting
13 displayed the text, “Meeting on a Break,” during meeting recesses. The Commission further
14 admits that during recesses commissioners sometimes met with one another in two-person
15 “dyads.” The Commission further admits that Jamie Nixon informed Melissa Santos that the
16 commissioners were meeting in “caucus dyads.” The Commission lacks sufficient knowledge
17 and information to form a belief as to the truth of the remaining allegations in Paragraph 3.4, and
18 therefore denies the same.
19

20 3.5 The Commission admits only that the first recess in the public meeting started
21 between one and two minutes after the public meeting began. The Commission denies the
22 remaining allegations in Paragraph 3.5.
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24 3.6 The Commission denies the first sentence of Paragraph 3.6. In response to the
25 second sentence, the Commission admits that it began the discussion portion of the regular
26
27

1 business meeting at approximately 11:34 p.m. The Commission denies the remaining allegations
2 of Paragraph 3.6.

3 3.7 The Commission admits that at approximately 11:34 p.m., the commissioners
4 entered the public meeting and the Chair commenced the discussion portion of the meeting.
5

6 3.8 The Commission admits that after the discussion portion of the meeting, the
7 commissioners recessed and then returned to the public meeting at approximately 11:58 p.m., at
8 which time the Chair entertained a set of motions that the voting commissioners unanimously
9 approved. The Commission denies the remaining allegations in Paragraph 3.8, including
10 Plaintiff's descriptive characterizations of the same.

11 3.9 The Commission denies the allegations in Paragraph 3.9.

12 3.10 In response to the first sentence of Paragraph 3.10, the Commission admits only
13 that final maps were not yet drawn at the time the commissioners voted to approve the
14 redistricting plans. The Commission denies the remaining allegations in the first sentence of
15 Paragraph 3.10, including Plaintiff's characterizations of the maps, balloting, and voting. In
16 response to the second sentence of Paragraph 3.10, the Commission admits that the Chair stated
17 during the meeting that independent commission staff were ready to post maps before sunrise.
18 The Commission denies the remaining allegations in the second sentence of Paragraph 3.10.
19

20 3.11 The Commission admits that it also voted to approve a resolution and a letter of
21 transmittal to the legislature. The Commission denies the remaining allegations in Paragraph
22 3.11, including Plaintiff's characterization of the maps.

23 3.12 The Commission admits the allegations in the first and second sentences of
24 Paragraph 3.12. In response to the third sentence of Paragraph 3.12, the Commission admits that
25 the Chair adjourned the meeting immediately after the votes, but lacks sufficient knowledge and
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1 information to form a belief as to the truth of the remaining allegations—including as to the state
2 of the mind of the People and the Supreme Court—and therefore denies the same.

3 3.13 Paragraph 3.13 contains legal conclusions to which no response is required. To
4 the extent a response required, the Commission denies the allegations in Paragraph 3.13.

5 3.14 Paragraph 3.14 contains legal conclusions to which no response is required. To
6 the extent a response is required, the Commission denies the allegations in Paragraph 3.14.

7 3.15 The Commission admits only that Paragraph 3.15 contains a quote from the
8 Commission’s spokesperson. The remainder of Paragraph 3.15 consists of Plaintiff’s opinions,
9 narratives, legal conclusions, and argument to which no response is required. To the extent a
10 response is required, the Commission denies the same.

11 3.16 Paragraph 3.16 contains legal conclusions to which no response is required. To
12 the extent a response is required, the Commission denies Paragraph 3.16.

13 3.17 Paragraph 3.17 consists of legal conclusions or argument, pure matters of opinion,
14 or confusingly phrased assertions—none of which require a response. To the extent a response is
15 required, the Commission denies Paragraph 3.17.

16 3.18 In response to Paragraph 3.18, the Commission admits only that the Chair sent a
17 letter to the Supreme Court on November 16, 2021, which letter speaks for itself. The remainder
18 of Paragraph 3.18 consists of legal conclusions or argument to which no response as required. To
19 the extent a response is required, the Commission denies the remainder of Paragraph 3.18.

20 3.19 Paragraph 3.19 consists of pure matters of opinion and descriptive
21 characterizations, to which no response is required. To the extent a response is required, the
22 Commission denies Paragraph 3.19.

1 3.20 In response to Paragraph 3.20, the Commission admits that Melissa Santos wrote
2 an article for Crosscut with the headline “New WA political maps a mystery after final
3 redistricting meeting,” which currently appears at the following link:

4 [https://crosscut.com/politics/2021/11/new-wa-political-maps-mystery-after-final-redistricting-](https://crosscut.com/politics/2021/11/new-wa-political-maps-mystery-after-final-redistricting-meeting)
5 [meeting.](https://crosscut.com/politics/2021/11/new-wa-political-maps-mystery-after-final-redistricting-meeting) The article speaks for itself. Except as expressly admitted above, the Commission
6 denies Paragraph 3.20.
7

8 3.21 In response to Paragraph 3.21, the Commission admits that Daniel Walters of the
9 Inlander wrote an article with the headline “11 reasons the Washington State Redistricting
10 Commission turned into a deadline-botching fiasco,” which currently appears at the following
11 link: [https://www.inlander.com/spokane/11-reasons-the-washington-state-redistricting-](https://www.inlander.com/spokane/11-reasons-the-washington-state-redistricting-commission-turned-into-a-deadline-botching-fiasco/Content?oid=22737920)
12 [commission-turned-into-a-deadline-botching-fiasco/Content?oid=22737920.](https://www.inlander.com/spokane/11-reasons-the-washington-state-redistricting-commission-turned-into-a-deadline-botching-fiasco/Content?oid=22737920) The article speaks
13 for itself. Except as expressly admitted above, the Commission denies Paragraph 3.21.
14

15 3.22 In response to Paragraph 3.22, the Commission admits that Laurel Demkovich of
16 the Spokesman-Review wrote an article with the headline “Washington redistricting commission
17 admits it failed to meet deadline; questions on what happened in final hours remain,” which is
18 currently available at the following link: [https://www.spokesman.com/stories/2021/nov/16/state-](https://www.spokesman.com/stories/2021/nov/16/state-redistricting-commission-approves-new-maps-b/)
19 [redistricting-commission-approves-new-maps-b/.](https://www.spokesman.com/stories/2021/nov/16/state-redistricting-commission-approves-new-maps-b/) The article speaks for itself. Except as
20 expressly admitted above, the Commission denies Paragraph 3.22.
21

22 3.23 In response to Paragraph 3.23, the Commission admits that the Seattle Times
23 published an article with the headline “Washington’s redistricting commission emerges Tuesday
24 night, post-deadline, with agreement on boundaries. What’s next?”, which appears at the
25 following link: <https://www.seattletimes.com/seattle-news/politics/what-happens-now-to->
26
27

1 washingtons-political-maps-after-redistricting-commissions-historic-failure/. The article speaks
2 for itself. Except as expressly admitted above, the Commission denies Paragraph 3.23.

3 3.24 In response to Paragraph 3.24, the Commission admits that the Chief Justice of
4 the Washington Supreme Court issued an order on November 18, 2021, which order speaks for
5 itself. Except as expressly admitted above, the Commission denies Paragraph 3.24.
6

7 3.25 Paragraph 3.25 consists of legal conclusions, argument, pure matters of opinion,
8 or descriptive characterizations—none of which require a response. To the extent a response is
9 required, the Commission denies Paragraph 3.25.

10 3.26 Paragraph 3.26 consists of legal conclusions or argument to which no response is
11 required. To the extent a response is required, the Commission denies Paragraph 3.26.
12

13 3.27 Paragraph 3.27 consists of legal conclusions or argument to which no response is
14 required. To the extent a response is required, Paragraph 3.27 is denied.

15 3.28 Paragraph 3.28 consists of legal conclusions and argument to which no response
16 is required. To the extent a response is required, Paragraph 3.28 is denied.

17 3.29 Paragraph 3.29 consists of legal conclusions and argument to which no response
18 is required. To the extent a response is required, Paragraph 3.29 is denied.

19 3.30 Paragraph 3.30 consists of legal argument to which no response is required. To
20 the extent a response is required, Paragraph 3.30 is denied.
21

22 3.31 The Commission denies the first two sentences of Paragraph 3.31. The third
23 sentence of Paragraph 3.31 consists of legal argument, to which no response is required. To the
24 extent a response is required, the Commission denies the same.
25
26
27

1 **IV. CAUSES OF ACTION**

2 **4.1. OPMA CLAIM**

3 Paragraph 4.1 contains legal conclusions and argument, to which no response is required.

4 To the extent a response is required, Paragraph 4.1 is denied.

5 **4.2. UNIFORM DECLARATORY JUDGMENTS ACT (RCW 7.24)**

6 Paragraph 4.2 contains legal conclusions and argument, to which no response is required.

7 To the extent a response is required, Paragraph 4.2 is denied.

8 **V. REQUEST FOR RELIEF**

9 The remainder of the Complaint constitutes a request for relief to which no response is
10 required. To the extent a response is required, the Commission denies that Plaintiff is entitled to
11 the relief or requested or to any relief whatsoever.

12 **VI. DEFENSES AND AFFIRMATIVE DEFENSES**

13 By way of further answer, defense, and affirmative defense, without admitting any
14 allegations previously denied, and without regard to who may bear the burden of proof, the
15 Commission further alleges as follows:

- 16
- 17 1. Plaintiff's Complaint fails to state a claim upon which relief may be granted.
 - 18 2. Plaintiff's claims are barred in whole or in part by the Commission's compliance with the
19 OPMA.
 - 20 3. Venue is improper in this Court.
- 21

22 **VII. DEFENDANT'S RESERVATION OF RIGHTS**

23 Any allegation set forth in the Complaint not otherwise specifically admitted in the
24 Commission's Answer is denied.

1 The Commission specifically reserves the right to amend this Answer by way of adding
2 additional defenses, affirmative defenses, and counterclaims, or by instituting third-party actions
3 or cross claims as additional facts are obtained through further investigation and discovery.

4 **VIII. DEFENDANT’S REQUEST FOR RELIEF**

5 WHEREFORE, having fully answered Plaintiff’s complaint and having asserted defenses
6 and affirmative defenses, the Commission respectfully requests the following relief:
7

- 8 1. That Plaintiff’s claims against the Commission be dismissed with prejudice and with no
9 recovery or relief to Plaintiff.
- 10 2. That the Court award the Commission its reasonable fees, expenses, costs and
11 disbursements to the fullest extent allowed by law and equity; and
- 12 3. That the Commission be granted any such other relief as the Court may deem just and
13 equitable.
14

15 DATED this 7th day of January, 2022.

16
17 PACIFICA LAW GROUP LLP

18
19 By /s/ Gregory J. Wong
20 Gregory J. Wong, WSBA #39329
21 Zachary J. Pekelis, WSBA #44557
22 Christina E. Jaccard, WSBA #55592

23 Attorneys for Defendants Washington State
24 Redistricting Commission, Brady
25 Walkinshaw, Joe Fain, April Sims, Paul
26 Graves, and Sarah Augustine
27

1 **CERTIFICATE OF SERVICE**

2 On the 7th day of January, 2022, I caused to be served a true copy of the foregoing
3 document upon:

4 Arthur West
5 120 State Avenue NE #1497
6 Olympia, WA 98501
7 Email: awestaa@gmail.com
8 *Attorney for Plaintiff*

- via facsimile
- via overnight courier
- via first-class U.S. mail
- via email service agreement
- via electronic court filing
- via hand delivery

9 Andrew R. W. Hughes
10 Cristina Sepe
11 Attorney General's Office
12 800 Fifth Avenue, Suite 2000
13 Seattle, WA 98104-3188
14 Email: Andrew.Hughes@atg.wa.gov
15 Email: Cristina.Sepe@atg.wa.gov
16 *Attorneys for Defendant State of Washington*

- via facsimile
- via overnight courier
- via first-class U.S. mail
- via email service agreement
- via electronic court filing
- via hand delivery

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

19 DATED this 7th day of January, 2022.

20 

21 _____
22 Sydney Henderson