

HONORABLE LONNIE R. SUKO

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

ESTATE OF OTTO ZEHM, deceased, and  
ANN ZEHM, in her personal capacity and  
as representative of the Estate of Otto  
Zehm,

Plaintiffs,

v.

CITY OF SPOKANE, JIM NICKS, KARL  
THOMPSON, STEVEN BRAUN, ZACK  
DAHLE, ERIN RALEIGH, DAN TOROK,  
RON VOELLER, JASON UBERAGA, and  
THERESA FERGUSON, each in their  
personal and representative capacities,

Defendants.

NO. CV-09-80-LRS

DECLARATION OF  
GARV BRAKEL

I, GARV BRAKEL, declare under penalty of perjury, that the following is true  
and correct.

1. I make the following declaration based upon my own personal  
knowledge.

DECLARATION OF GARV BRAKEL - 1

HOWARD F. DELANEY, City Attorney  
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5<sup>th</sup> Floor Municipal Building  
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1           2.     I am employed by the City of Spokane as the Director of the  
2 Management Information Services (MIS) department. In that role, I manage the  
3 City's information systems, its computers, the mail and internal delivery system,  
4 and the telephone and communications systems. I have been the director of MIS  
5 since August 1998. I have a Bachelor of Science degree in Computer Science from  
6 the University of Southern Mississippi, and a Masters degree in Systems  
7 Management from the University of Southern California. I was in the United  
8 States Army from 1966 to 1993 and retired in 1993 at the rank of Lieutenant  
9 Colonel.  
10

11  
12           3.     From November of 2008 through June of 2009 I have responded to 7  
13 or 8 subpoenas issued by the U.S. Attorney's Office. All of them requested the  
14 production of any electronic records related to the arrest and subsequent death  
15 of Otto Zehm. At least two of them were delivered to me on the day of or day  
16 before I was requested to testify. Most of them were duplicative, addressed to  
17 the wrong person, and requested email messages that had been purged from our  
18 system in accordance with city policy. The majority of messages that we  
19 recovered that were responsive to the subpoenas came from the personal folders  
20 maintained by individuals named in the subpoenas. Because personal folders  
21 were replaced by newer technology in February of 2008, the production of  
22 responsive records required us to restore massive amounts of data from our  
23 offsite magnetic tape storage facility. We have also had to add storage capacity  
24 our email archiving and search system to enable these searches. My email  
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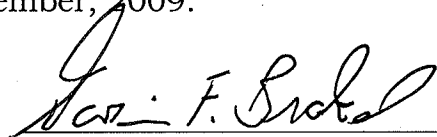
DECLARATION OF GARV BRAKEL - 2

**HOWARD F. DELANEY, City Attorney**  
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1 administrator, computer operators, and I have spent over 100 unreimbursed  
2 hours producing relevant records.

3  
4 4. We have never sought to have a subpoena quashed. We have always  
5 attempted to locate and provide whatever has been requested. On occasion, we  
6 have had to ask the U.S. Attorney's Office to help us clarify a request in order to  
7 be able to locate the material or information they sought if the request was  
8 overbroad. The City and the U.S. Attorney's Office have been able to  
9 successfully work out such overly-broad requests.  
10

11 DATED this 21<sup>st</sup> day of September, 2009.

12  
13   
14 \_\_\_\_\_  
GARV BRAKEL

CERTIFICATE OF SERVICE

I hereby certify that on the 21<sup>st</sup> day of September, 2009, I electronically filed the foregoing "Declaration of Garv Brakel" with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

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