

WASHINGTON STATE TORT CLAIM FORM

General Liability Claim Form #SF 210

For Official Use Only

Pursuant to Chapter 4.92 RCW, this form is for filing a tort claim against the state of Washington. Some of the information requested on this form is required by RCW 4.92.100 and is subject to public disclosure pursuant to RCW 42.56.

PLEASE TYPE OR PRINT CLEARLY IN INK

Mail or deliver original claim to Department of Enterprise Services
Office of Risk Management
1500 Jefferson Street SE, MS 41466
Olympia, Washington 98504-1466
Phone: (360) 407-9199
Fax: (360) 407-8022
Email: Claims@des.wa.gov

Business Hours: Monday – Friday 8:00 a.m. – 5:00 p.m.
Closed on weekends and official state holidays.

1. Claimant's name: Manweller Mathew Shon 08/23/1969
Last name First Middle Date of birth (mm/dd/yyyy)
2. Inmate DOC number (if applicable): N/A
3. Current residential address: Redacted
4. Mailing address (if different): c/o Doug Nicholson, PO Box 1088, 201 W. 7th Ave., Ellensburg WA 98926
5. Residential address at the time of the incident: Same
(if different from current address)
6. Claimant's daytime telephone number: c/o Doug Nicholson (509) 925-6916
Home Business or Cell
7. Claimant's e-mail address: c/o dnicholson@lwhsd.com
8. Date of the incident: _____ Time: _____ a.m. p.m. (check one)
(mm/dd/yyyy)
9. If the incident occurred over a period of time, date of first and last occurrences:
from 12/08/2017 Time: _____ a.m. p.m.
(mm/dd/yyyy) (mm/dd/yyyy)
to 08/14/2018 Time: _____ a.m. p.m.
(mm/dd/yyyy) (mm/dd/yyyy)
10. Location of incident: WA Kittitas Ellensburg Primarily at CWU
State and county City, if applicable Place where occurred

11. If the incident occurred on a street or highway:

N/A

Name of street or highway	Milepost number	At the intersection with or nearest intersecting street
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12. State agency or department you believe is responsible for damage/injury:

Central Washington University ("CWU"), located at 400 E. University Way, Ellensburg WA 98926

13. Names and telephone numbers of all persons involved in or witness to this incident:

(See attached)

14. Names and telephone numbers of all state employees having knowledge about this incident:

All Administrators, faculty and staff at CWU

15. Names and telephone numbers of all individuals not already identified in #13 and #14 above that have knowledge regarding the liability issues involved in this incident, or knowledge of the Claimant's resulting damages. Please include a brief description as to the nature and extent of each person's knowledge. Attach additional sheets if necessary.

Doug Nicholson, Lathrop, Winbauer, Harrel, Slothower & Denison, LLP, 201 W. 7th Ave.,
PO Box 1088, Ellensburg WA 98926

16. Describe how the state of Washington caused your injuries or damages (**if your injuries or damages were not caused by the State, do not use this form. You must file your claim against the correct entity**). Explain the extent of property loss or medical, physical or mental injuries. Attach additional sheets if necessary.

(See attached complaint.) Damages include loss of income and earning potential, attorney's fees and related expenses, and general damages (e.g., emotional distress, harassment, humiliation, damage to reputation, anxiety, etc.).

17. Has this incident been reported to law enforcement, safety or security personnel? If so, when and to whom? Please attach a copy of the report or contact information.

No.

18. Names, addresses and telephone numbers of treating medical providers. Submit copies of all medical reports and billings.

N/A

19. Please attach documents which support the allegations of the claim.

20. I claim damages from the state of Washington in the sum of \$ over \$2,000,000.00

This Claim form must be signed by one of the following (check appropriate box).

- Claimant
- Person holding a written power of attorney from the Claimant
- Attorney in fact for the Claimant
- Attorney admitted to practice in Washington State on the Claimant's behalf
- Court-approved guardian or guardian ad litem on behalf of the Claimant

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

Signature of Claimant

Date and place (residential address, city and county)

Or



8/16/18 Ellensburg, Kittitas County, WA

Signature of Representative

Date and place (residential address, city and county)

Douglas W. Nicholson

24854

Print Name of Representative

Bar Number (if applicable)

Attachment to Washington State Tort Claim
Claimant: Manweller, Mathew Shon

13. Names and telephone numbers of all persons involved in or witness to this incident:

Trish Murphy
Northwest Workplace Law PLLC
1904 Third Avenue, Ste. 1030
Seattle WA 98101
Phone: (206) 812-4849

Alan Smith
Assistant Attorney General
800 Fifth Avenue, #2000
Seattle WA 98104
Phone: (206) 389-2099

Tim Englund
c/o CWU

Staci Sleigh-Layman
c/o CWU

Linda Schactler
c/o CWU

Charlene Andrew
c/o CWU

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KITTITAS COUNTY SUPERIOR COURT FOR THE STATE OF WASHINGTON

MATHEW MANWELLER,

Plaintiff,

v.

CENTRAL WASHINGTON UNIVERSITY,
and TRISH K. MURPHY,

Defendants.

NO.

COMPLAINT FOR BREACH OF
CONTRACT, ETC.

COMES NOW the plaintiff, Mathew Manweller, who alleges the following:

I. PARTIES AND JURISDICTION

1.1 Plaintiff is an adult resident of Kittitas County, Washington.

1.2 Defendant, Central Washington University ("CWU") is a public, four-year state university located in Ellensburg, Kittitas County, Washington.

1.3 Defendant, Trish K. Murphy ("Murphy") is an attorney who represents employers in conducting what she purports to be independent, fair and neutral investigations into allegations of employee misconduct. Murphy is a principal of what appears to be her own business, Northwest Workplace Law PLLC, located in Seattle, Washington. Murphy was hired by CWU, in December of 2017, ostensibly to conduct a fair, impartial, and unbiased investigation into

1 allegations of purported misconduct by plaintiff. Murphy, however, woefully failed to act in
2 good faith as a fair and neutral investigator, as will be further described below. As a result,
3 CWU wrongfully terminated its employment contract with plaintiff.

4 1.4 Jurisdiction and venue are proper in the Kittitas County Superior Court under
5 RCW 2.08.010 and RCW 4.12.025(1).
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7 II. FACTUAL ALLEGATIONS

8 2.1 Prior to his wrongful termination on August 14, 2018, plaintiff was a tenured
9 professor of political science at defendant CWU. Plaintiff is also a state representative for the
10 13th District.

11 2.2 Plaintiff was first elected to the position of state representative on November 6,
12 2012.

13 2.3 Prior to the election, in an effort to undermine plaintiff's political campaign and to
14 cause him personal harm, "anonymous sources" (believed to originate for CWU) falsely
15 informed the Yakima Herald Republic that complaints involving misconduct with students had
16 been filed against plaintiff with the Provost's Office.

17 2.4 As a result, on July 11, 2012, CWU received a public records request from the
18 Yakima Herald Republic requesting copies of any documents relating to *complaints* filed with
19 CWU against plaintiff.
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21 2.5 In response to the Yakima Herald Republic's public records request, even though
22 no actual *complaint* had ever been filed against plaintiff, CWU released certain internal records
23 relating to plaintiff, which included an unsubstantiated allegation of misconduct involving a
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1 student that purportedly occurred in 2006. This allegation, moreover, did not result in a
2 complaint made against plaintiff.

3 2.6 Based upon the facts, and its own policies and procedures, CWU decided, in
4 2006, that no action should be taken against plaintiff regarding the unsubstantiated allegation that
5 surfaced that year.

6 2.7 In fact, on information and belief, plaintiff alleges that no student complaint has
7 ever been filed against him alleging inappropriate conduct.

8 2.8 Despite the above facts, on or about September 1, 2012, CWU hired an outside
9 party to conduct an investigation into the same 2006 allegation of misconduct that had already
10 been determined by CWU, years earlier, as not warranting further investigation. In a baseless
11 effort to justify the prior, unsubstantiated allegation, CWU's then Chief-of-Staff, Sherer Holter,
12 claimed that the 2012 investigation was necessary because she was not sure that CWU's prior
13 policies complied with the requirements of Title IX in its prior investigations.

14 2.9 However, if there were any plausible merit to Ms. Holter's assertion, then one
15 would have expected CWU to reopen *all* prior allegations of misconduct that occurred in the
16 mid-2000s instead of just singling out plaintiff for such investigation. To make matters worse,
17 CWU, in an email sent to the outside investigator, requested that the investigation be expedited,
18 so that it could be completed by the end of October of 2012, in order to give CWU sufficient
19 time to release it, pursuant to public records requests, so that it be made public prior to the
20 election of November 6, 2012, and thus hopefully derail Dr. Manweller's efforts to be elected as
21 a state representative for the 13th District.
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1 2.10 Moreover, between 2006 and 2012, when CWU decided to have an outside party
2 conduct a new investigation into the same 2006 matter, no new facts had surfaced to justify a
3 new investigation.

4 2.11 The 2012 investigation into the unsubstantiated 2006 allegation of misconduct
5 was also done in violation of CWU's own policies and procedures, and without a reasonable,
6 good faith basis to expend CWU's taxpayer-funded resources for such purpose.

7 2.12 Moreover, even if the 2012 investigation were warranted, which it was not, under
8 CWU's policies and procedures, CWU could have ordered an oral report of the investigation but
9 instead chose to have a written report made, knowing it would be made public pursuant to a
10 public records request. As a result, a "Report of Investigation", dated October 1, 2012, was
11 issued.
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13 2.13 Despite its best efforts, CWU once again could not substantiate the 2006
14 allegation, as its then-Chief of Staff, Sherer Holter, admitted in a sworn statement. Accordingly,
15 on or about October 8, 2012, CWU advised plaintiff that it "is not pursuing any discipline"
16 against him as a result of the October 1st Report of Investigation. A copy of Holter's sworn
17 statement is attached at **Exhibit 1** hereto.
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19 2.14 Nonetheless, CWU promptly proceeded to conduct a second equally baseless
20 investigation of plaintiff in its relentless attempt to find a way to terminate his employment with
21 the University which, on information and belief, is believed to be largely motivated by the fact
22 that certain individuals within the University disapproved of plaintiff's political views, as
23 established by CWU's own internal documents.
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1 2.15 CWU's second investigation resulted in a "Second Investigative Report", dated
2 January 1, 2013, which CWU initially used as a basis to deny Dr. Manweller's then-pending
3 promotion to a fully tenured professor. However, this second report, like the first report, both of
4 which were conducted by the same investigator and based upon CWU's ulterior motives, proved
5 to be inadequate for purposes of carrying out CWU's ulterior motives.

6 2.16 The improper conduct of CWU, and its influence over both prior investigative
7 reports, were well documented in plaintiff's written rebuttal. A copy of the most salient portions
8 of plaintiff's rebuttal is attached at **Exhibit 2** hereto.

9 2.17 Once CWU's improper conduct was exposed, the University proceeded to drop its
10 disciplinary proceedings against plaintiff, approved his promotion to full tenured professorship,
11 and entered into a settlement agreement, pursuant to which CWU paid \$15,000 of the attorney's
12 fees incurred by plaintiff in having to defend his good name and reputation against CWU's
13 baseless attack against him. Another express purpose of the settlement agreement was to "settle
14 and resolve any actual or potential disputes or claims that may arise or relate to . . . reported
15 student concerns, as well as the potential for continued litigation of same." A copy of the
16 "Settlement and Release Agreement", executed in October of 2014, is attached at **Exhibit 3**
17 hereto.

18 2.18 More than four years after the parties entered into their settlement agreement, on
19 or about December 6, 2017, various newspaper articles published the prior allegations that had
20 been made against plaintiff, which they presumably received pursuant to public records requests,
21 but hardly mentioned, or at best downplayed, the fact that the prior allegations had been
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1 determined to be unsubstantiated, and that all disputes regarding said allegations had been
2 resolved by the 2014 settlement agreement.

3 2.19 Overreacting to the adverse publicity generated by these newspaper articles, and
4 realizing that it now had another opportunity to try to get rid of plaintiff, on December 8, 2017,
5 with no good faith basis for doing so, CWU put plaintiff on paid administrative leave, pending
6 the results of yet another investigation into ancient allegations and hearsay innuendo, which had
7 previously been resolved, pursuant to the parties' 2014 settlement agreement.
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9 2.20 CWU was required to conduct the investigation pursuant to the terms of its
10 employment contract with plaintiff, including his rights under the Collective Bargaining
11 Agreement ("CBA"). This new investigation, however, was a hoax. Indeed, CWU's true motive
12 was to conduct an investigation for the sole purpose of finding any colorable basis possible,
13 regardless of how implausible, to create the appearance of a "pattern of conduct", in order to
14 justify its pre-determined decision to terminate plaintiff, which it made shortly after receiving the
15 public response to the newspaper articles of December 6, 2017. This was well before CWU
16 hired its outside investigator and co-defendant, Murphy, to conduct the investigation.
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18 2.21 In fact, acting through a third party intermediary, in December of 2017, before it
19 even hired Murphy to conduct the sham investigation, CWU informed plaintiff that he had only
20 two options: either resign immediately, or face a termination that was a *fait accompli*. CWU
21 also relayed to plaintiff that, if he failed to resign, its investigation would go far beyond the
22 scope of his employment with CWU, and would include his activities in Olympia as a state
23 representative. This overreaching threat to invade plaintiff's private life goes beyond pale; it
24 violates the scope of CWU's authority and singles plaintiff out for punitive treatment not
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1 administered to other faculty members, in violation of the CBA. This is at least the second time
2 that CWU has singled out plaintiff for such disparate treatment.

3 2.22 When plaintiff refused to cave to CWU's demands, CWU carried out its threats
4 and, on December 19, 2017, it hired Murphy to conduct an investigation that included, among
5 other things, investigating "[i]ndividuals employed by or working with the Washington State
6 Legislature, including lobbyists, staff, and legislatures." Attached at **Exhibit 4** hereto are true
7 and correct excerpts from CWU's request for investigative services, which became part and
8 parcel of its contract with Murphy, a copy which is also included as part of the exhibit.
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10 2.23 As part of the investigation, CWU made sure that Murphy reopened the over a
11 decades-old allegations against plaintiff, which had been the subject of its prior investigations
12 and found unsubstantiated, and which were also covered by the terms and conditions of the
13 parties' settlement agreement, thereby breaching of the agreement. What cannot be over stated is
14 this: CWU and Murphy were not responding to complaints made against plaintiff; instead, they
15 were looking for whatever Murphy could dig up to create a case against plaintiff. And, in the
16 course of this pursuit, Murphy spent over 457 hours, for which CWU paid her almost \$120,000.
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18 2.24 Plaintiff's employment agreement with CWU includes the CBA. Under the CBA,
19 faculty members "shall be disciplined or discharged only for just cause"; and CWU "shall apply,
20 where appropriate, the principles of progressive discipline as follows: verbal reprimand, written
21 reprimand, suspension without pay, and discharge." Regarding the prerequisite - that a faculty
22 member "shall be disciplined or discharged only for just cause" - the "just cause" guidelines are
23 set forth at Appendix E, under Article 24 of the CBA. Attached at **Exhibit 5** hereto are true and
24 correct copies of Article 24 and Appendix E of the CBA.
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1 2.25 Furthermore, pursuant to Article 24's just cause guidelines, Murphy's
2 "investigation" [was required to be] conducted fairly and objectively", as set forth at paragraph 4
3 of the Appendix E "Just Cause Guidelines". And Murphy in fact held herself out as being a fair,
4 neutral, and impartial investigator. Murphy's investigation, however, was anything but fair,
5 impartial, and objective. To the contrary, her investigation, and her report based thereon, were
6 extremely biased and result-driven, with the purpose of finding whatever possible dirt she could
7 concoct on plaintiff. In this regard, Murphy acted more like a prosecutor who was on a personal
8 vendetta to utterly destroy the target of the investigation.
9

10 2.26 In fact, three of the female witnesses she interrogated have now come forward,
11 after learning of the newspaper publicity over the investigation, to state that Murphy was trying
12 to, among other things, put words in their mouths and/or twist what they said, in order to lead
13 them into confirming her suggestions that plaintiff acted inappropriately, either with them or
14 others. Significantly, these woman had nothing but positive things to say to Murphy regarding
15 plaintiff, and refuted her attempts to get them to say that plaintiff acted inappropriately; yet, their
16 interview summaries, along with the interview summaries of multiple others, did not make it into
17 Murphy's biased report.
18

19 2.27 Furthermore, during his perfunctory "pre-disciplinary" questioning of plaintiff,
20 which was done *after* the issuance of Murphy's report, Tim Englund, Dean of CWU's College of
21 Arts and Humanities, had to reluctantly admit that the now well-publicized video - which
22 Murphy concluded supports a finding of improper conduct by plaintiff - shows no such thing.
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24 2.28 While Murphy was conducting her result-driven investigation (*e.g.*, to
25 manufacture a "pattern of inappropriate behavior" claim against plaintiff), plaintiff's peers and
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1 others at CWU were recommending that he receive "a merit increase of 3%", with the
2 recommendation based upon his outstanding academic achievements and scholarship. CWU's
3 Dean, Timothy Englund, described the latter as being at a "production level [exceeding] the
4 college's criteria for excellence." Dean Englund's letter to Provost Frank, dated February 22,
5 2018, and Provost Frank's letter to Dr. Manweller, dated April 30, 2018, are attached at **Exhibit**
6 **6** hereto.

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8 2.29 Nonetheless, on August 14, 2018, CWU formally announced that, effective that
9 day, it had terminated Dr. Manweller's employment, which would not have happened but for its
10 breach of the settlement agreement and Murphy's biased investigative report, which woefully
11 failed to comply with the fairness and objectivity requirements set forth in the "Just Cause
12 Guidelines" of the CBA.

13 **III. FIRST CAUSE OF ACTION (FOR BREACH OF CONTRACT AGAINST CWU)**

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15 3.1 Plaintiff realleges, and incorporates in full by reference herein, the allegations set
16 forth at paragraphs 1.1 through 2.29 above.

17
18 3.2 CWU's conduct, as alleged above, constitutes a breach of the parties' settlement
19 agreement, as well as a separate breach of plaintiff's employment agreement with CWU.

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21 3.3 As a direct result of CWU's breach of the aforesaid agreements, plaintiff has
22 suffered damages in an amount to be determined according to proof.

23 **IV. SECOND CAUSE OF ACTION (FOR INTENTIONAL INTERFERENCE WITH 24 CONTRACT AGAINST MURPHY)**

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26 4.1 Plaintiff realleges, and incorporates in full by reference herein, the allegations set
forth at paragraphs 1.1 through 2.29 above.

1 4.2 Murphy's above-alleged conduct constituted a bad faith and wrongful interference
2 with plaintiff's employment contract with CWU.

3 4.3 As a direct result of defendant Murphy's conduct, plaintiff has suffered damages
4 in an amount to be established according to proof.

5 **V. THIRD CAUSE OF ACTION (FOR PROFESSIONAL**
6 **NEGLIGENCE AGAINST MURPHY)**

7 5.1 Plaintiff realleges, and incorporates in full by reference herein, the allegations set
8 forth at paragraphs 1.1 through 2.29 above.

9 5.2 Murphy owed a duty to plaintiff to conduct a good faith, fair, neutral and
10 objective investigation of him, and she in fact held herself out as being a "neutral" investigator.

11 5.3 Murphy breached her duty to plaintiff, thereby causing him damages in an amount
12 to be determined according to proof.

13 **VI. FUTURE CLAIMS AGAINST CWU**

14 6.1 Plaintiff realleges, and incorporates in full by reference herein, the allegations set
15 forth at paragraphs 1.1 through 2.29 above.

16 6.2 Based upon the above allegations, plaintiff reserves the right to amend his
17 complaint to allege tort-based claims against CWU. Plaintiff must first, however, file a
18 Washington State Tort Claim Form. A copy of plaintiff's form is attached at **Exhibit 7** hereto.
19 Once the statutory deadline governing the form expires, plaintiff will file a motion to amend this
20 complaint to allege his tort-based claims.
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23 **VII. PRAYER FOR RELIEF**

24 WHEREFORE, plaintiff prays for the following relief:
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EXHIBIT 1

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

MATHEW MANWELLER,

Plaintiff,

v.

CENTRAL WASHINGTON
UNIVERSITY,

Defendant.

NO. 12-2-00328-1

DECLARATION OF
SHERER HOLTER IN RESPONSE TO
ORDER TO SHOW CAUSE

I, SHERER HOLTER, declare as follows:

1. I am the Chief of Staff reporting to the President of Central Washington University ("CWU"), a public institution of higher education located in Ellensburg, Washington. Among other responsibilities, I oversee the institution's offices of Human Resources and Equal Opportunity. I have personal knowledge of the facts stated herein.

2. CWU understands and takes seriously its obligations under Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 *et seq.*, which prohibits discrimination on the basis of sex in federally funded education programs and which requires educational institutions to investigate student allegations of sexual harassment and other forms of discrimination based on sex.

3. The *Yakima Herald-Republic* submitted a public records request on July 11, 2012, requesting "any documents relating to complaints filed with the institution against professor

1 Mathew Manweller in his time at Central Washington University.” The newspaper also asked
2 whether CWU had investigated any such claims and further clarified that “anonymous sources”
3 had made statements to the newspaper alleging that complaints were filed “accusing Manweller of
4 offering better grades to students in exchange for favors that may have included sexual acts.”
5 Attached as Exhibit A is a true and correct copy of the July 11 public records request.

6 4. CWU located a number of responsive records relating to student allegations of
7 sexual harassment that were brought forward around 2006-07. CWU provided Professor
8 Manweller with written notice of the July 11 records request, affording him a reasonable
9 opportunity to seek a protective order preventing release of the records. Professor Manweller did
10 not object to release of the records. The requested records were thereupon provided to the *Yakima*
11 *Herald-Republic* with Professor Manweller’s name redacted in accordance with the rule of
12 *Bainbridge Island Police Guild v. City of Puyallup*, 172 Wn.2d 389 (2011), concerning the release
13 of public records relating to unsubstantiated allegations of misconduct on the part of public
14 employees.

15 5. In reviewing the records provided to the *Yakima Herald-Republic*, CWU was
16 unable to conclude that a formal investigation had been conducted, or that a sufficiently thorough
17 investigation had been conducted, in response to the 2006-07 allegations. CWU therefore
18 determined in light of potentially unresolved concerns and CWU’s continuing obligations under
19 Title IX to initiate a formal investigation. For this purpose CWU retained as an independent
20 investigator Ernest Radillo, J.D., of the Wenatchee law firm of Odgen Murphy Wallace, PLLC.
21 This investigation resulted in the “Report of Investigation” dated October 1, 2012, which is the
22 subject of the instant proceeding. CWU emphatically denies Professor Manweller’s allegation
23 that the investigation was politically motivated or conducted for any other improper purpose.
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1 6. In the meantime, around mid-September 2012, the reporter for the *Yakima Herald-*
2 *Republic* initiated several phone calls to CWU requesting additional information about the
3 Manweller matter. I instructed CWU's public affairs officer to confirm only the fact that an
4 investigation was being conducted, that we anticipated receiving the investigation report within a
5 couple of weeks, and that the reporter would need to submit a formal public records request if he
6 wished to request a copy of the report. CWU denies Professor Manweller's allegation that CWU
7 leaked confidential information to the press. CWU merely responded truthfully to press inquiries
8 without disclosing any substantive information.

9 7. On October 3, 2012, after confirming that CWU had received the investigation
10 report, the *Yakima Herald-Republic* made a follow-up records request for "any more recent
11 documents related to investigations into the conduct of professor Mathew Manweller." Attached
12 as **Exhibit B** is a true and correct copy of the October 3 public records request. On October 16,
13 2012, the *Ellensburg Daily Record* made a separate public records request for "all documents
14 associated with investigations involving Mathew Manweller in the last six months." Attached as
15 **Exhibit C** is a true and correct copy of the October 16 records request.

16 8. CWU determined that the October 1 "Report of Investigation" was responsive to
17 the October 3 and October 16 records requests and therefore notified Professor Manweller in
18 writing that CWU intended to release the requested records, again affording a reasonable
19 opportunity for him to obtain a protective order, resulting in the temporary restraining order that is
20 at issue here.

21 9. After reviewing the October 1 "Report of Investigation," CWU did not make a
22 determination that the allegations against Professor Manweller were substantiated and no
23 disciplinary action was initiated against him. This result along with a copy of the "Report of
24 Investigation" was shared with Professor Manweller by letter dated October 8, 2012. Because
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1 CWU did not determine that the allegations were substantiated, CWU was prepared, and remains
2 prepared, to release the October 1 "Report of Investigation" to the Yakima and Ellensburg
3 newspapers with Professor Manweller's name redacted in accordance with the rule of *Bainbridge*
4 *Island*.

5 10. Attached as **Exhibit D** is a true and correct copy of CWU Procedure ("CWUR")
6 1-30-050, "Discrimination Complaint and Resolution Procedures—Employees." CWUR 1-30-
7 050 addresses procedures for bringing a discrimination complaint against a CWU employee.
8 Section 6(C) of CWUR 1-30-050 expressly provides that CWU may assign a formal investigation
9 to be conducted by an individual external to CWU. Nor does anything in CWUR 1-30-50 support
10 Professor Manweller's contention that CWU should have requested the investigation report to be
11 delivered orally. All references to investigation reports in CWUR 1-30-050 are to written reports.
12 Indeed, Sections 6(G) through 6(J) provide for review of an investigation report by a CWU Equal
13 Opportunity Committee as a remedy for CWU employees who contest the results of an
14 investigation. An investigation report delivered orally would deprive an employee of that remedy.

15 11. Attached as **Exhibit E** is a true and correct copy of CWU Procedure ("CWUR")
16 1-30-060, "Sexual Harassment." Section D.1 of CWUR 1-30-060 specifically addresses
17 "complaints alleging sexual harassment by a university employee" and states that such complaints
18 will be resolved using the "discrimination complaint and resolution policies and procedures"
19 under CWUP 2-35-070.

20 12. Attached as **Exhibit F** is a true and correct copy of CWU Policy ("CWUP") 2-35-
21 070, "Discrimination Complaint and Resolution Policy," referenced in CWUR 1-30-060 as stated
22 in the paragraph immediately above. This is the CWU Policy that applies to the investigation and
23 resolution of discrimination complaints against CWU employees by students or others. The last
24 paragraph of CWUP 2-35-070 expressly reserves the institution's right to initiate an investigation
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1 where a complaint has not been received, but information exists that a violation of CWU's
2 nondiscrimination policies may have occurred.

3 13. Attached as **Exhibit G** is a true and correct copy of a CWU procedure, "Student
4 Affairs Discrimination Grievance Procedures," identified as CWUR 1-30-010 in the *CWU*
5 *Policies and Procedures Manuals* published at [www.cwu.edu/resources-reports/cwur-1-0-](http://www.cwu.edu/resources-reports/cwur-1-0-presidents-division)
6 [presidents-division](http://www.cwu.edu/resources-reports/cwur-1-0-presidents-division) (last visited October 24, 2012). CWUR 1-30-010 does *not* apply to student
7 discrimination complaints against CWU faculty or staff; it applies only to student complaints
8 against other students.

9 14. The temporary restraining order entered in this proceeding is preventing CWU
10 from complying with what CWU believes to be its legal obligations under the Public Records Act,
11 RCW 42.56.

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

14 DATED at Seattle, Washington, this 25th day of October, 2012.

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19 SHERER HOLTER

EXHIBIT 2

DR. MANWELLER'S RESPONSE TO CWU'S IMPROPER EFFORTS TO UNDERMINE HIS PROFESSIONAL CAREER

I. Introduction.

As we all know, Dr. Manweller, a tenured associate professor who is well-qualified, and was on track for a full professorship, was elected as a state representative in November 2012. In an effort to undermine Dr. Manweller's political aspirations, on July 11, 2012, the Yakima Herald Republic received an "anonymous" tip "alleging that *complaints* were filed with the Provost's Office accusing Dr. Manweller of offering better grades to students in exchange for favors that may have included sexual acts." A reporter with the Herald then sent an e-mail to CWU "to request copies of any documents relating to *complaints* filed with the institution against Professor Mathew Manweller in his time at Central Washington University." A copy of the e-mail is attached at **Appendix A** hereto. After conducting an investigation of its records, CWU concluded that no "complaints" were filed by any students alleging sexual misconduct, and in particular, no complaints of "offering better grades to students in exchange for [sexual] favors". CWU's investigation revealed that there had been only two allegations of improper conduct against Dr. Manweller, both of which occurred in 2006. The allegations were fully investigated at the time in accordance with CWU's then-existing policies and procedures. Neither of the allegations was substantiated, and neither met the definition of "sexual harassment" as that term is defined under CWU's policies and procedures, which are the same as required under Title IX. After the investigation, not only did CWU take no further action, it awarded Professor Manweller early tenure -- something granted to few professors.

II. CWU's Chief of Staff Targets Dr. Manweller.

CWU could have honestly responded to the Yakima Herald's request by stating that no complaints were filed with the Provost's office accusing Dr. Manweller of offering better grades to students in exchange for sexual favors, nor were there any other complaints filed with CWU alleging sexual misconduct. Instead, CWU produced to the Herald all documents it could find relating to the unsubstantiated 2006 allegations. Because the Herald found nothing in those records worthy of reporting, nothing appeared in the newspaper as a result of CWU's initial disclosure.

It is at this point that CWU's Chief of Staff, Sherer Holter, who is believed to have a law degree, made an ill-advised and misguided decision to reopen the 2006 allegations, even though no student complaints were ever filed with CWU, the two students in question had long-ago left CWU and moved out of the area, and no new complaints or information had come to the attention of CWU during the interim 6 years. Ms. Holter's excuse for reopening the investigation was her purported concern that the prior investigation may not have complied with the requirements of Title IX. A copy of Ms. Holter's sworn statement regarding her "reasoning" is attached at **Appendix B** hereto.

Although Ms. Holter's sworn statement "emphatically denies . . . that the investigation was politically motivated or conducted for any other improper purpose", any reasonable conclusion from the facts dictates otherwise. Indeed, if Ms. Holter were truly concerned about whether CWU's prior investigation of Dr. Manweller complied with the then-existing requirements of Title IX, she could have simply presented the relevant facts to an expert on the subject, and then asked if CWU complied with Title IX. Moreover, if there were any question as to whether CWU's investigation was in compliance, Ms. Holter could have also asked the expert if CWU was required to re-open an investigation into the 2006 allegations. She did neither.

Ms. Holter's sworn statement is dated October 25, 2012. However, in prior e-mail responses to CWU's Robert Hickey questioning Ms. Holter as to why CWU's Equal Opportunity Office was not running the investigation, and why the investigation was being opened based upon something allegedly occurring six years earlier, she made no mention of her purported concerns regarding Title IX compliance. It is also obvious from her responses that she is engaging in a "song and dance" to justify CWU's conduct. What Ms. Holter's responses to Mr. Hickey demonstrate is that she arbitrarily applied what she believes to be her discretionary authority to reopen an old, unsubstantiated allegation at her whim. A copy of Ms. Holter's e-mail responses to Mr. Hickey are attached at **Appendix C** hereto. One must also question why, if Ms. Holter truly believed that CWU "dropped the ball" in terms of its Title IX compliance in 2006, those who ran the investigations in 2006, and who are still employed by CWU, are not being disciplined or investigated for their failures?

Moreover, as a matter of law, it is extremely doubtful that a new investigation of two unsubstantiated, six-plus year old allegations would have been required; yet, Ms. Holter appears to have unilaterally decided otherwise. What makes Ms. Holter's decision even more suspect is this: If Ms. Holter was really concerned over whether CWU's policies and procedures complied with Title IX in 2006 (and thereafter prior to her employment with CWU), why did she limit the investigation to Dr. Manweller, when in fact there were numerous allegations of sexual misconduct against other faculty members and employees at CWU during this time?

In another gross error of judgment (or, perhaps, a calculated move to destroy or harm Dr. Manweller), Ms. Holter not only decided to re-open the investigation into the unfounded 2006 allegations, she decided to hire an outside law firm - Ogden, Murphy, Wallace ("OMW") - to conduct the investigation. In doing so, Ms. Holter made sure that CWU *did not* retain the law firm as counsel for CWU, but instead to act only as an "independent" investigator. Had she hired the law firm to act as CWU's attorneys, the investigation would have been protected from disclosure by the attorney-client privilege and/or the attorney work product doctrine. Any person with a legal background knows this.

Further raising a red flag as to Ms. Holter's real motive is that it appears Dr. Manweller is the only professor for whom Ms. Holter caused CWU to hire an outside, private investigator, based upon such stale and unsubstantiated allegations. One must also wonder why Ms. Holter did not conduct the investigation internally to begin with, and why she felt compelled to take personal charge of the investigation as CWU's contact person with the outside investigator. Whether CWU's 2006 investigation of Dr. Manweller complied with Title IX clearly involves answering a legal question. By law, therefore, CWU was required to have this issue handled by the Attorney General's office, pursuant to RCW 43.10.040, which states in part: "The attorney general shall also represent the state [including state-funded universities] . . . in all legal or quasi legal matters, hearings, or proceedings, and advise all officials, departments, boards, commissions, or agencies of the state in all matters involving legal or quasi legal questions, except those declared by law to be the duty of the prosecuting attorney of any county."

Also casting a pall over Ms. Holter's and CWU's credibility in ordering and directing the investigation of Dr. Manweller are the following uncontroverted facts: (1) despite the fact the allegations were over six years old, and involved two former students who no longer live in the area, and no new information had come to light in the interim, Ms. Holter directed OMW to commence its investigation on *August 9, 2012*, and complete it on *August 17, 2012*; (2) the retainer with OMW made no reference to compliance with Title XI; and (3) CWU's attachment to the retainer falsely states: "A complaint of sex discrimination was received anonymously in 2006 and 2008." (Underscoring added.) A copy of CWU's agreement with OMW is attached at **Appendix D** hereto. Moreover, when it was clear that the investigation was going to take more time, on September 28, 2012, Ms. Holter sent an e-mail to the investigator (Ernest Radillo at OMW) stating: "*Please expedite as best you can.*" See **Appendix E** hereto (emphasis added).

These facts beg the obvious rhetorical question: Since the allegations went back over six (6) years, the two students in question were no longer at CWU and had moved out of the area, and there were no other allegations, why was Ms. Holter in such a rush to have the investigation completed and a report prepared? Two other disturbing, rhetorical questions are: Why was Ms. Holter insisting that she be consulted during the investigation process, which was supposed to be independent? And how could she reasonably believe that a competent investigation of ancient news could be completed in such a short timeframe? The only reasonable conclusion to be drawn from these facts is that Ms. Holter wanted to expedite the report so that it could be sent to the newspaper for publication in advance of the mailing of ballots in mid-October. Confirmation for this conclusion is found in Ms. Holter's sworn statement, confirming that "around mid-September 2012, the reporter for the *Yakima Herald Republic* initiated several calls to CWU requesting additional information about the Manweller matter." See Appendix B at ¶6. Somebody at CWU, or with access to CWU's internal affairs, leaked to the press the fact that the investigation was being conducted, and Ms. Holter apparently wanted to take full advantage of this leak to Dr. Manweller's detriment.

III. The Immediate Effect of CWU's Unwarranted Investigation.

Although the OMW/Radillo report, dated October 1, 2012, led CWU to determine that the allegations against Dr. Manweller remained unsubstantiated, and no disciplinary action was

initiated against him, CWU turned the report over to the Yakima Herald Republic and Ellensburg Daily Record. CWU made no attempt to prevent its disclosure, even though Dr. Manweller's attorney urged CWU's counsel to do so, and provided several grounds on which disclosure could be prevented, including the attorney-client privilege. Although CWU claimed that it did not hire the OMW law firm in its capacity as an attorney to conduct the investigation, OMW obviously believed otherwise. And the reason we know this is because, when Dr. Manweller attempted to get copies of OMW's files relating to its investigations, OMW initially refused to produce several documents on the ground that they were protected by the attorney-client privilege and/or work product doctrine. *See Appendix F* hereto.

As might be expected, once the report hit the news the week before the November 2012 election, a former student left a voice mail message with CWU, alleging that she knew of a student who years ago had made an allegation against Dr. Manweller. The student in question [REDACTED] is one of the two students who was the subject of the original 2006 allegations and investigation that Ms. Holter reopened in 2012, giving rise to the OMW/Radillo report of October 1, 2012. In addition, two CWU personnel claim that a student [REDACTED] stated she had been the subject of inappropriate conduct by Dr. Manweller. Ms. [REDACTED] however, stated, under penalty of perjury, that this was not true. *See Appendix G* hereto.

Nonetheless, Ms. Holter used these suspect allegations to order a second investigation of Dr. Manweller by Mr. Radillo and OMW. Ms. Holter again failed to conduct the investigation internally or through the AG's office; she again failed to take any steps to have the investigation remain confidential (i.e., by retaining OMW and Mr. Radillo as outside attorneys); she again insisted that she be the contact person in the investigation and, as will be made clear below, Ms. Holter and other CWU "speaking agents", had their hands in drafting the language of the second OMW/Radillo report. (This response will later fully expose how the report was not objective, was result-oriented, and is not worth the paper it is written on.)

IV. Dr. Manweller Was Wrongly Disciplined and Denied Promotion.

To make matters worse, this second investigative report caused Dean Johnson to reject the COTS Personnel Committee's unanimous recommendation "that Dr. Manweller has met department,

college, and university standards" to "be granted promotion to the rank of Professor." A copy of the letter of recommendation, dated March 6, 2013, is attached at **Appendix H** hereto.

Attached at **Appendix I** hereto is a copy of Dean Johnson's letter to Provost Levine stating that he does not recommend Dr. Manweller for promotion to the rank of full professor. Although Dean Johnson concurred with the prior levels of review regarding the three criteria for promotion (teaching, scholarship, and service), and that Dr. Manweller's performance in these areas "reaches the level of exemplary or exceptional", he nonetheless opines that Dr. Manweller's "interaction with students outside of the classroom setting and his behavior in public have both breached professional levels at times."

A day earlier, on April 3, 2013, Dean Johnson had issued Dr. Manweller a written reprimand based upon the investigative reports, in which he inaccurately states that, during a meeting of March 19, 2013, Dr. Manweller "admitted that [he] engaged in inappropriate behavior with a female student in a class of [his] and another female student at a local bar." According to Dean Johnson, Dr. Manweller "admitted to buying drinks for two (2) women, accepting drinks from them, and saying something to them that was inappropriate." This is an inaccurate characterization of what was actually stated by Dr. Manweller. Moreover, Dean Johnson later admitted, under oath, that there is no policy against faculty members having drinks with students. Dean Johnson's second basis for his reprimand is that Dr. Manweller exchanged cell phone numbers with a current female student, and included her as a Facebook friend. Dean Johnson states: "I find these incidents to be unprofessional and have the appearance of abuse of power."

Dean Johnson's "findings" are not sufficient to warrant any formal discipline or to justify denying Dr. Manweller's promotion. At most, Dr. Manweller had drinks with two students in 2006, and *may have* said something inappropriate, although he does not recall anything specific about the alleged incident that occurred over six (6) years ago. And exchanging cell phone numbers or other contact information with a student does not appear to be prohibited by any of

CWU policies or procedures.¹

To Dean Johnson's credit, however, when he wrote the letter of reprimand and made his recommendation against promoting Dr. Manweller, he did not have before him the facts demonstrating the total lack of credibility of the second investigative report and the influence CWU's Ms. Holter and others had in dictating its pre-ordained and biased conclusions, each of which will now be fully exposed.

V. The Second Investigative Report, Prepared by Ernest Radillo of OMW, is Not Worth the Paper it is Printed On.

A. OMW's and Mr. Radillo's Biased Predisposition.

OMW and Mr. Radillo had a vested interest in giving CWU the outcome-driven report desired by Ms. Holter and perhaps others at CWU. Prior to investigating Dr. Manweller, OMW and Mr. Radillo substantially cut their fees in an unrelated investigation, in order to induce CWU into making OMW the "go to" firm for outside legal services. Specifically, in November 2011, during the investigation of another CWU faculty member, OMW wrote off "over \$6,800 in fees and costs", thus resulting in a "total net savings for CWU of approximately \$19,370." A motivating factor behind this was OMW's desire "to establish a long term continuing relationship with CWU." See **Appendix O** hereto. Significantly, the billing statement attached at **Appendix O** reveals just how "hands on" CWU was in influencing the outcome of the investigation. For example, on November 3, 2011, Mr. Radillo spent three hours attending a debriefing meeting at CWU with HR personnel and Ms. Holter, which resulted in a "checklist of suggested changes and revisions to Report of Investigation." CWU's intimate involvement in drafting the report eliminates any colorable claim that the report was independent and objective.

Regarding the second investigation of Dr. Manweller, on January 24, 2013 at 10:41 a.m., Mr. Radillo forwarded to CWU's Staci Sleigh-Layman an e-mail attaching his "*Final* Second

¹ A copy of Dean Johnson's letter of reprimand is attached at **Appendix J** hereto. Attached at **Appendix K** hereto is a copy of Dr. Manweller's Official Grievance Form regarding Provost Levine's decision not to promote him. Attached at **Appendix L** hereto is a copy of Dr. Manweller's rebuttal to Dean Johnson's claims of inappropriate behavior; attached at **Appendix M** hereto is a copy of Dr. Manweller's letter to Provost Levine responding to Dean Johnson. Attached at **Appendix N** hereto is Provost Levine's response to Dr. Manweller's letter, which states that her decision to deny his promotion was based upon her reading of Dean Johnson's reprimand letter.

Investigative Report concerning Dr. Manweller." See **Appendix P** hereto. The report is dated January 24, 2013. At page 16, it is signed by Mr. Radillo under the following statement: "THIS INVESTIGATIVE REPORT WAS COMPLETED ON JANUARY 24, 2013."

Curiously, however, seven days later, on January 31, 2013, at 2:26 p.m., Mr. Radillo e-mailed to Ms. Sleigh-Layman his "Revised Second Investigative Report Documents". A copy of Mr. Radillo's e-mail and the first and last pages of his "Revised Second Investigative Report", dated January 31, 2013, are attached at **Appendix Q** hereto. The first page of the report, however, does not indicate that it is a "Revised" Second Investigative Report, and Mr. Radillo's signature at page 16, is again under the following statement: "THIS INVESTIGATIVE REPORT WAS COMPLETED ON JANUARY 31, 2013". This calls into question Mr. Radillo's credibility, as well as that of CWU, because an objective, ethical investigator, particularly one who is also a lawyer, would have indicated that the "final" January 31st report had been revised or amended from the "final" report dated January 24th.

So what happened in between? A review of the documents subpoenaed from Mr. Radillo's office, but withheld by CWU in response to Dr. Manweller's public records disclosure requests and his formal document production requests during the litigation, show that CWU participated in revising the language of the report. On January 24th, at 3:34 p.m., Mr. Radillo sent an e-mail to Ms. Sleigh-Layman attaching yet another "Second Investigative Report (Final)", in which he stated: "Attached is an updated Report *to reflect the change on page 1 referenced in your voice mail.*" (Emphasis added.) See **Appendix R** hereto. So it now appears we have an interim, third "final" report, which incorporates CWU's changes to the original "final" report. But CWU's involvement in drafting the "final" report does not end here.

On January 30th, Ms. Sleigh-Layman sent an e-mail to Mr. Radillo in which she stated: "Hi, Ernest. This question came from Alan Smith. Can you help me understand what you meant? I think he makes a good point." Ms. Sleigh-Layman then typed out, in quotes, what apparently is AG Smith's suggested change: "'I want to suggest one change on Page 11 of the Second Investigative Report, at the beginning of the last paragraph, where it states that 'Ms. Yastchenko condoned Dr. Manweller's behavior.' To 'condone' behavior means to 'pardon' or

'excuse' the behavior. I'm sure that's not what was meant." See **Appendix S** hereto. In response, the following day (January 31st), Mr. Radillo sent an e-mail to Ms. Sleigh-Layman stating: "I made a correction to the Second Investigative Report. Attached is a letter explaining my change, and a copy of the updated Second Investigative Report." See **Appendix S** hereto (the final e-mail), and Mr. Radillo's attached letter at **Appendix T** hereto.

Mr. Radillo's e-mail and attached letter were sent at 12:12 p.m. on January 31st, along with the attached updated Second Investigative Report. However, something else must have happened during the interim, because a little over two hours later, at 2:26 p.m., Mr. Radillo sent additional "Revised Second Investigative Report" documents. Compare **Appendices Q** and **S**. And who knows how many telephone conversations took place between Mr. Radillo and CWU's representatives between the "final" report of January 24th, and the official "final" report dated January 31st.

Moreover, Mr. Radillo's explanatory letter (**Appendix T**) appears to be deliberately misleading, because it states he made the correction based upon a conversation with Ms. Yastchenko to reconfirm her testimony, making no reference to the fact that the change was based upon the advice of CWU's counsel, Alan Smith. In fact, it appears that Mr. Radillo first considered changing the word "condoned" to "condemned" at page 11 of his report, as reflected from a version of page 11 produced by his office in response to Dr. Manweller's subpoena. See **Appendix U** hereto. Furthermore, the OMW billing records produced by CWU relating to Mr. Radillo's second investigation do not show that he had a conversation with Ms. Yastchenko on January 31st, nor do they indicate that CWU suggested making any changes to the first "final" report he sent to CWU on January 24th. See **Appendix V** hereto. In short, the circumstances surrounding Mr. Radillo's second investigation raise a large red flag regarding his and CWU's "objectivity"; hence, their credibility. And an examination of the report itself drives home the utter lack of objectivity and credibility.

EXHIBIT 3

SETTLEMENT AND RELEASE AGREEMENT

This **SETTLEMENT AND RELEASE AGREEMENT** ("Agreement") is entered into by and between **CENTRAL WASHINGTON UNIVERSITY** ("CWU") and **MATHEW MANWELLER**, a CWU faculty member ("Faculty Member"). This Agreement is intended to settle and resolve any actual or potential disputes or claims that may arise from or relate to the matters described in the recitals hereof.

1. Recitals. CWU and Faculty Member mutually acknowledge the existence of certain disputed issues as between the parties relating to reported student concerns, as well as the potential for continued litigation of same. The parties, mutually desiring to avoid the costs and burdens of further litigation, and without either party admitting any wrongdoing, therefore hereby agree to settle and resolve their differences for and in consideration of the mutual covenants hereof.

2. Attorney Fees.

2.1 CWU, for its part, will issue a check for accrued attorney fees in the amount of fifteen thousand dollars (\$15,000) payable on Faculty Member's behalf to Faculty Member's attorney of record, Douglas W. Nicholson of the firm of Lathrop, Winbauer,

2.2 Such payment shall be Faculty Member's sole and complete consideration from CWU in return for Faculty Member's release of claims against CWU with respect to any actual or potential disputed matters referenced in Paragraph 1 above. Faculty Member shall not be entitled to recover, and agrees to waive, any monetary award or recovery against CWU related to any released claim.

3. Release of Claims.

3.1 Faculty Member agrees not to file any internal grievance or any complaint, charge, or lawsuit in any court wherein there is any allegation of wrongdoing on the part of CWU or its authorized representatives with respect to any claim or cause of action of any type existing as of the effective date of this Agreement and arising from or in connection with the disputed matters referenced in Paragraph 1 above.

3.2 Faculty Member knowingly, voluntarily, and irrevocably **WAIVES AND RELEASES** each and every claim and right of any kind that Faculty Member as of the effective date of this Agreement has against CWU or any of its authorized representatives that may arise from or in connection with the matters referenced in Paragraph 1 above. The claims and rights thus waived and released by Faculty Member include, **but are not limited to**, every claim and right arising in tort or under any contract, including any individual employment contract or collective bargaining agreement, or under any statute, specifically including but not limited to every claim under the Public Records Act, RCW 42.56. Faculty Member acknowledges that without this waiver and release of claims against CWU, Faculty Member would not be entitled to a substantial part of the consideration received under this Agreement.

4. Complete Agreement; Modification. This Agreement constitutes the entire agreement between the parties and supersedes any and all other agreements, understandings, negotiations and discussions, oral or written, express or implied. The parties agree that no other representations, inducements, promises, agreements, or warranties relating to this Agreement, oral or otherwise, have been made to or by them. No modification or waiver of this Agreement shall be valid or binding unless signed in writing by the parties.

5. Governing Law; Venue; Severability. This Agreement shall be governed by the laws of the State of Washington. Venue for any dispute under this Agreement shall be in the Kittitas County Superior Court. If any provision of this Agreement shall be held invalid, such invalidity shall not affect the other provisions of this Agreement that can be given effect without the invalid provision, if such remainder is consistent with applicable law and with the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

6. Voluntary Agreement. THIS IS A VOLUNTARY SETTLEMENT AGREEMENT AND FINAL RELEASE OF CLAIMS. Faculty Member acknowledges the receipt of this Agreement in substantially similar form on or about **October 14, 2014**, and was thereby advised in writing of the right to consult with an attorney or other advisors. Faculty Member agrees that Faculty Member has been given a satisfactory period to consider this Agreement before signing it. **Faculty Member represents and agrees that Faculty Member is entering into this Agreement knowingly and voluntarily.**

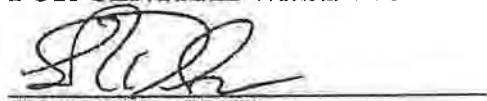
FOR FACULTY MEMBER:



MATHEW MANWELLER

10/20/14
DATE

FOR CENTRAL WASHINGTON UNIVERSITY:



STEVAN DeSOER
Chief Human Resources Officer

10/29/2014
DATE

APPROVED AS TO FORM:

Alan Smith, Assistant Attorney General
10.14.14

EXHIBIT 4



Request for Qualifications

Investigation Services

Central Washington University

Ellensburg, WA

Reference Bid: RFOQ# F-1938

Issue Date: December 11, 2017

Proposals Due: December 15, 2017 3:00 pm

Return Proposals To:

**Central Washington University
Purchasing Office- MailStop 7480
2nd Floor Mitchell Hall
400 E. University Way
Ellensburg, WA 98926-7480**

SECTION #2: GENERAL INFORMATION

2.1 Purpose of Proposal: Central Washington University intends to contract with a qualified firm for investigation services. The purpose of this competitive procurement process is to assist the University in selecting a vendor who will best meet the University's needs. The RFQQ provides vendors a means to present their services and abilities for an objective review.

Desired Scope of Work:

Scope of Investigation

Subject of the investigation is Mathew Manweller, Ph.D., a tenured CWU Professor of Political Science and elected representative to the Washington State House of Representatives for the 13th Legislative District.

A. Identify and investigate allegations or concerns relating to sexual harassment or unprofessional conduct as may be reported by:

1. Current or former CWU students;
2. CWU staff and faculty, and
3. Individuals employed by or working with the Washington State Legislature, including lobbyists, staff, and legislators.

B. Review relevant documents and applicable policies and laws, including the CWU faculty collective bargaining agreement and Faculty Code;

C. Identify and interview witnesses;

D. Prepare a detailed report of your investigation summarizing your factual findings. The report should include conclusions you may reach regarding any real or potential violation(s) of applicable policies and laws of CWU or the State of Washington.

The investigation report would not be covered by the attorney-client privilege and may be subject to disclosure in response to public records requests. The report should not identify witnesses by name, but should refer to them by their capacity and letter or numerical designation (e.g., Student A, CWU Employee A, etc.). Questions concerning the scope of investigation should be directed to Chief of Staff Linda Schactler or AAG Alan Smith.

Schedule:

- Issue Date: December 11, 2017
- Proposals Due: December 15, 2017, 3pm

**CENTRAL WASHINGTON UNIVERSITY
STANDARD AGREEMENT**

This **CENTRAL WASHINGTON UNIVERSITY STANDARD AGREEMENT** ("Agreement") is entered into by and between Central Washington University, 400 East University Way, Ellensburg, WA 98926 ("CWU"), and Northwest Workplace Law PLLC, 1904 Third Avenue, Suite 1030, Seattle, WA 98101 ("Contractor"). The parties and purpose of this Agreement are further described in the recitals hereof.

I. RECITALS

1.1 CWU. CWU is a public institution of higher education established by the State of Washington with its principal place of business located in Ellensburg, Washington. CWU desires to acquire the goods and/or services herein described for the purposes stated in Paragraph 1.3 hereof.

1.2 Contractor. Contractor is a law firm in Seattle, Washington, providing independent investigations and labor and employment law for employers and organizations throughout Washington State. Contractor desires to provide the goods and/or services herein described for the purposes stated in Paragraph 1.3 hereof.

1.3 Purpose. The purpose of this Agreement is to provide for the Investigation Services referenced herein.

For and in consideration of the foregoing recitals, and in consideration of the payments or other covenants and mutual agreements herein provided, the parties hereby agree as follows.

II. OBLIGATIONS OF THE PARTIES

2.1 Contractor's Obligations.

(a) Contractor agrees to provide the following described goods and/or services: Investigation Services per Contractor's response to CWU's RFQQ F-1938.

(b) If the beneficiary of payment under this Agreement is not a U.S. Citizen or U.S. Permanent Resident Alien, Contractor must consult with a Nonresident Alien Tax Specialist in CWU's Payroll Office (509-963-2221) prior to commencing the performance of Contractor's obligations hereunder. Contractor certifies that the beneficiary of payment: (initial one) TKM IS NOT a U.S. Citizen or U.S. Permanent Resident Alien.

2.2 CWU's Obligations. CWU agrees to pay for the Investigation Services at the hourly rate of \$260.00. CWU will reimburse Contractor's actual travel expenses, exclusive of mileage, with advance approval of lodging costs. Payments will be made within thirty days of receiving Contractor's itemized invoice(s).

III. CONTRACT TERM, TERMINATION, DISPUTES

3.1 Term. This Agreement shall become effective when signed by the parties and shall terminate upon the full performance of their mutual obligations hereunder, unless extended by mutual written agreement.

3.2 Termination.

(a) This Agreement may be terminated at any time by mutual written agreement of the parties.

(b) CWU, by giving written notice, may terminate this Agreement at any time without cause and without further obligation to Contractor except for payment due for goods provided or services rendered prior to the effective date of termination.

(c) The Agreement may be terminated by either party for a material breach by the other party of that party's obligation(s) hereunder. In the event of breach, the aggrieved party must provide written notice to the breaching party and allow fifteen (15) days to cure. If the breach cannot be cured within that time or such longer time as deemed reasonable by the aggrieved party, the Agreement may be terminated immediately by written notice of the aggrieved party. Termination for breach shall not be deemed to limit any of the terminating party's contractual remedies as against the breaching party.

(d) Termination of this Agreement by any means provided herein shall not excuse any party's performance of its obligations hereunder through the effective date of termination, except that CWU shall not be obligated to pay for goods that have not been delivered or services that have not been performed.

3.3 Disputes. Any dispute between the parties arising under or relating to this Agreement shall be resolved informally if possible, but if the parties cannot so resolve their differences, then arbitration shall provide the sole and exclusive remedy for resolving the contract dispute. The parties shall jointly select one arbitrator acceptable to both parties. If the parties cannot agree on an arbitrator, the Yakima Dispute Resolution Center shall be requested to choose an arbitrator. The fees and expenses of the arbitrator shall be shared equally by both parties to this Agreement, and each party shall bear its own costs and attorney fees. Arbitration shall be conducted according to the commercial arbitration procedures of the American Arbitration Association. The arbitrator's decision or award shall be final and binding on both parties.

IV. GENERAL TERMS AND CONDITIONS

4.1 Assignment. This Agreement shall extend to and be binding upon and inure to the benefit of the successors and assignees of the respective parties. However, this Agreement may not be assigned or subcontracted by either party without the other party's express written consent.

4.2 Independent Capacity. This Agreement is intended to create an independent contractor relationship. Each party to the Agreement shall act in an independent capacity and not as an agent or representative of the other party. The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be the employees or agents of that party and shall not be considered for any purpose to be the employees or agents of the other party.

4.3 Indemnification. Each party to this Agreement shall be responsible for its own acts or omissions and for those of its directors or trustees, officers, employees, agents, and volunteers. Neither party shall be responsible to the other party for the acts or omissions of persons or entities not a party to this Agreement.

4.4 Insurance. CWU may require Contractor, prior to the commencement of services, to provide CWU with proof of insurance acceptable to CWU and naming CWU as additional insured. Such proof of insurance, if required, shall be attached to and made part of this Agreement, and Contractor warrants that such insurance shall remain in effect during the term of this Agreement.

4.5 Non-Discrimination. The parties to this Agreement each agree to comply with applicable federal and state laws prohibiting discrimination in education, employment, or public accommodations based on age, sex, marital status, sexual orientation, race, creed, color, national origin, genetic information, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog or service animal by a person with a disability.

4.6 Records and Audits. The parties recognize that business records created, maintained, or used in the performance of this Agreement may constitute public records subject to the public disclosure and retention requirements under applicable state law. Each party will retain its business records relating to this Agreement for the applicable retention period(s) and will make such records available upon request for inspection and audit by the other party or by authorized representatives of the Washington State Auditor.

4.7 Complete Agreement; Modification. This Agreement constitutes the entire agreement between the parties and supersedes any and all other agreements, understandings, negotiations and discussions, oral or written, express or implied. The parties agree that no other representations, inducements, promises, agreements, or

warranties relating to this Agreement, oral or otherwise, have been made to or by them. No modification or waiver of this Agreement shall be valid or binding unless in writing and signed by the parties.

4.8 Governing Law; Venue; Severability. This Agreement shall be governed by the laws of the State of Washington. Venue for any dispute under this Agreement shall be in Kittitas County, Washington. If any provision of this Agreement shall be held invalid, such invalidity shall not affect the other provisions of this Agreement that can be given effect without the invalid provision, if such remainder is consistent with applicable law and with the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

4.9 Waiver. The waiver by a party of any default or breach of this Agreement, or the failure of a party to enforce any provision hereof or to exercise any right or privilege hereunder, shall not be deemed to waive any prior or subsequent breach or default, the enforcement of any provision hereof, or the exercise of any right or privilege hereunder, unless otherwise stated in a writing signed by an authorized representative of the party and attached to the original Agreement.

4.10 Notices. Written notices required or permitted to be provided by a party to the other party under this Agreement may be provided by personal delivery, legal courier service, or certified mail, postage prepaid and return receipt requested. Notice may be provided by regular first class mail if simultaneous notice is provided by electronic mail. Notices will be sent to the parties at the following mailing addresses:

Central Washington University
400 East University Way
Ellensburg, WA 98926-7480

Northwest Workplace Law PLLC
1904 Third Avenue, Suite 1030
Seattle, WA 98101

The address of a party for the receipt of notice may be changed at any time by written notice provided in accordance herewith.

4.11 Contract Administration. The contract administrator and principal point of contact for each party to this Agreement shall be as follows, subject to change by written notice.

- (a) The Contract Administrator for CWU will be Staci Sleigh-Layman, Executive Director of Human Resources, 509-963-1256, Staci.Sleigh-Layman@cwu.edu
- (b) The Contract Administrator for Contractor will be Trish K. Murphy, Principal, 206-812-4840, trish@nwworkplacelaw.com

IN WITNESS WHEREOF, this Agreement has been executed by and on behalf of the parties through their authorized representatives, effective as of the latest date written below. This Agreement may be signed in counterparts.

CENTRAL WASHINGTON UNIVERSITY

CONTRACTOR

Staci Sleigh-Layman 12/19/17
Signature Date

Trish K. Murphy 12/19/17
Signature Date

Staci Sleigh-Layman
Staci Sleigh-Layman

Trish K. Murphy
Trish K. Murphy

Executive Director, HR
Executive Director of Human Resources

Principal
Principal

NORTHWEST
WORKPLACE
LAW PLLC

1304 Third Avenue, Suite 1030
Seattle, WA 98101
nwworkplacelaw.com

Response to Central Washington University's Request for Qualifications

Investigation Services

RFQQ #F-1938

Trish K. Murphy
December 2017

SECTION #1: BIDDERS SUBMITTAL PAGE

The undersigned has carefully examined all instructions and specifications and hereby proposes to furnish the services described herein, in accordance with the bid instructions and specifications. (Note: Signature must be in ink and must be that of an individual authorized to act in such capacity for the firm represented.)

- 1.1 Respondent has responded to all items in Section #5 "Required Responses of all Bidders"
TKM (Initial)
- 1.2 The response to this RFQQ has been prepared independently, without consultation, communication or agreement with others for the purpose of restricting competition. TKM (Initial)
- 1.4 In preparing this RFQQ, respondent has not been assisted by any current or former employee of the state of Washington whose duties relate to this bid and who was assisting in other than his or her official capacity. Neither does such a person or any member of his or her immediate family have any financial interest in the outcome of this RFQQ. TKM (Initial)
- 1.5 One (1) complete original copy of the proposal is included. TKM (Initial)

Any official correspondence related to this Request For Qualifications solicitation shall be directed to the owner, Central Washington University, Purchasing Office, Attn: Stuart Thompson, 400 E University Way; MS 7480; Ellensburg, WA 98926-7480; and to the respondent as noted below:

Trish K Murphy, Principal
Name and Title of Signing Officer (print)

Northwest Workplace Law PLLC, 1904 3rd Ave. Ste 1030
Company Name and Address Seattle, WA 98101

206-812-4840 206-219-4259 46-2411019
Telephone Fax Number Tax I.D. Number

Trish K Murphy 12/14/17
Signature Date

EXHIBIT 5

Re-evaluations will follow the process and timeline outlined in 22.2.3(b) and (c).

- (c) Disciplinary action, up to and including termination, provided that any such action must meet the just cause standard described in ARTICLE 24 - DISCIPLINARY ACTION/JUST CAUSE (see APPENDIX E).

ARTICLE 23 - RETIREMENT

- 23.1 There is no mandatory retirement age for faculty members.
- 23.2 Upon recommendation of a chair to the Dean/director, any retired faculty member may be invited to resume employment on a contract basis with the University.
- 23.3 Phased Retirement allows tenured faculty to retire gradually over a maximum period of two (2) years. Faculty accepted into Phased Retirement will receive a fifty percent (50%) reduction of responsibility for up to six (6) consecutive quarters (excluding summer quarter) prior to full retirement.
 - 23.3.1 Faculty requesting Phased Retirement must be 62 years of age or older.
 - 23.3.2 Applications for Phased Retirement will be submitted to the applicant's department chair. The chair will forward the application, along with a recommendation regarding the application and a statement of operational impact, to the Dean according to any announced deadlines for the program. Applications must be approved by the Dean, Provost, President and Board of Trustees, and may be denied or delayed based on operational impacts. Approved applicants will receive a Phased Retirement contract.
 - 23.3.3 While on Phased Retirement, participants will be compensated based on a 50% appointment, and will remain eligible for University benefits according to plan terms.
 - 23.3.4 Once the Phased Retirement period has begun, there is no possibility of re-entering full-time status. Participants retain tenured status during the Phased Retirement period, but will fully retire and relinquish their tenured status at the end of the Phased Retirement period.
 - 23.3.5 The two-year Phased Retirement period is a maximum. At any time during the two-year Phased Retirement period, participants may request full retirement according to the regular procedure.

ARTICLE 24 - DISCIPLINARY ACTION/JUST CAUSE

- 24.1 Faculty shall be disciplined or discharged only for just cause. (*See* APPENDIX E.)
- 24.2 The University shall apply, where appropriate, the principles of progressive discipline as follows: verbal reprimand, written reprimand, suspension without pay, and discharge.

APPENDIX E – JUST CAUSE GUIDELINES

Just cause guidelines commonly used by arbitrators are as follows:

1. **NOTICE:** "Did the Employer give to the employee forewarning or foreknowledge of the possible or probable consequences of the employee's disciplinary conduct?"
2. **REASONABLE RULES OR ORDER:** "Was the Employer's rule or managerial order reasonably related to (a) the orderly, efficient, and safe operation of the Employer's business, and (b) the performance that the Employer might properly expect of the employee?"
3. **INVESTIGATION:** "Did the Employer, before administering the discipline to an employee, make an effort to discover whether the employee did in fact violate or disobey a rule or order of management?"
4. **FAIR INVESTIGATION:** "Was the Employer's investigation conducted fairly and objectively?"
5. **PROOF:** "At the investigation, did the judge obtain substantial evidence or proof that the employee was guilty as charged?"
6. **EQUAL TREATMENT:** "Has the Employer applied its rules, orders and penalties even-handedly and without discrimination to all employees?"
7. **PENALTY:** "Was the degree of discipline administered by the Employer in a particular case reasonably related to (a) the seriousness of the employee's proven offense, and (b) the record of the employee in his service with the Employer?"

EXHIBIT 6



April 30, 2018

Dr. Mathew S. Manweller
Department of Political Science

Dear Dr. Manweller:

After thoroughly reviewing your professional record, including the other levels of review, I am pleased to recommend that you be continued in your tenured position at Central Washington University.

In addition, other levels of review have acknowledged your exemplary scholarship/creative activity, and have recommended you for a merit increase of three percent. I concur with this recommendation and am approving a merit increase of three percent.

I am forwarding my recommendation to President Gaudino. It will be considered by the Central Washington University Board of Trustees at its May 18, 2018 meeting.

I join your colleagues in recognizing your contributions to the mission of Central Washington University. Please accept my congratulations.

Sincerely,

Katherine P. Frank
Provost/Vice President for Academic and Student Life

c: Dean, via Faculty180
Chair, via Faculty180
Faculty Relations, via Faculty180

Timothy F. Englund
Dean, College of the Sciences

February 22, 2018

Dr. Katherine Frank
Provost and Vice President for Academic Affairs and Student Life

Provost Frank,

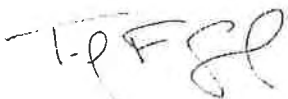
I write to convey my positive post-tenure review recommendation for Dr. Mathew Manweller, Professor of Political Science. This recommendation is supported by the chair of the department, the department personnel committee and the college personnel committee. I base my recommendation on careful consideration of the materials that Dr. Manweller submitted and on the previous levels of review. University and college policy articulate expectation for faculty performance by rank, noting that tenure carries the career expectation of sustained contributions in instruction, scholarship and service. Dr. Manweller's record reflects this level of performance and I recommend that he be Continued with Recognition of Excellence in his tenure appointment.

College merit standards pertaining to the rank of professor recognize excellent teaching, scholarship, service and department leadership as chair. In particular, section 7.1.4.1 of the College of the Sciences Policy Manual specifies: "*Post-tenure review assures continued performance that is consistent with expectations of rank for assigned areas of faculty work and in line with the university mission and accreditation standards. In order to be considered for merit adjustment based on scholarship, teaching, or service performance through PTR, a full professor must demonstrate that he/she has continued to meet department, college and university criteria for excellence in the appropriate area.*" Based upon careful consideration of the materials that Dr. Manweller submitted and on the previous levels of review, Dr. Manweller's record demonstrates this level of achievement in scholarship. Therefore, it is my recommendation that he receive a 3% merit increase.

During this evaluation cycle Dr. Manweller taught a variety of classes both face-to-face and online. Student evaluations are solid, with face-to-face classes being more positively reviewed. Dr. Manweller's personal statement reveals that he is aware of this discrepancy and is taking positive steps to alleviate it. Peer evaluation was performed once and is cursory. I am pleased to see that he mentored two DHC honors theses and one student presentation at an external conference. This has been a productive scholarly period for Dr. Manweller as he has produced 5 Category A and several Category B products. This production level exceeds the college's criteria for excellence. Lastly, Dr. Manweller has been active in his department, his professional community and the state in proportion to the workload units he has been allocated to devote toward service.

Overall, it is clear that Dr. Manweller has accumulated a solid record in all three areas of his assigned duties. His record is worthy of continuation in his tenured appointment. Additionally, I recommend and a 3% merit adjustment on the basis of his scholarship.

Sincerely,



Timothy F. Englund

EXHIBIT 7

WASHINGTON STATE TORT CLAIM FORM

General Liability Claim Form #SF 210

For Official Use Only

Pursuant to Chapter 4.92 RCW, this form is for filing a tort claim against the state of Washington. Some of the information requested on this form is required by RCW 4.92.100 and is subject to public disclosure pursuant to RCW 42.56.

PLEASE TYPE OR PRINT CLEARLY IN INK

Mail or deliver original claim to Department of Enterprise Services
Office of Risk Management
1500 Jefferson Street SE, MS 41466
Olympia, Washington 98504-1466
Phone: (360) 407-9199
Fax: (360) 407-8022
Email: Claims@des.wa.gov

Business Hours: Monday – Friday 8:00 a.m. – 5:00 p.m.
Closed on weekends and official state holidays.

1. Claimant's name: Manweller Mathew Shon 08/23/1969
Last name First Middle Date of birth (mm/dd/yyyy)
2. Inmate DOC number (if applicable): N/ A
3. Current residential address: address redacted, Cle Elum WA 98922
4. Residential address at the time of the incident: Same
(if different from current address)
5. c/o Doug Nicholson, PO Box 1088, 201 W. 7th Ave., Ellensburg WA 98926
6. Claimant's daytime telephone number: c/o Doug Nicholson (509) 925-6916
Home Business or Cell
7. Claimant's e-mail address: c/o dnicholson@lwhsd.com
8. Date of the incident: _____ Time: _____ a.m. p.m. (check one)
(mm/dd/yyyy)
9. If the incident occurred over a period of time, date of first and last occurrences:
from 12/08/2017 Time: _____ a.m. p.m.
(mm/dd/yyyy) (mm/dd/yyyy)
to 08/14/2018 Time: _____ a.m. p.m.
(mm/dd/yyyy) (mm/dd/yyyy)
10. Location of incident: WA Kittitas Ellensburg Primarily at CWU
State and county City, if applicable Place where occurred

11. If the incident occurred on a street or highway:

N/A

Name of street or highway	Milepost number	At the intersection with or nearest intersecting street
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12. State agency or department you believe is responsible for damage/injury:

Central Washington University ("CWU"), located at 400 E. University Way, Ellensburg WA 98926

13. Names and telephone numbers of all persons involved in or witness to this incident:

(See attached)

14. Names and telephone numbers of all state employees having knowledge about this incident:

All Administrators, faculty and staff at CWU

15. Names and telephone numbers of all individuals not already identified in #13 and #14 above that have knowledge regarding the liability issues involved in this incident, or knowledge of the Claimant's resulting damages. Please include a brief description as to the nature and extent of each person's knowledge. Attach additional sheets if necessary.

Doug Nicholson, Lathrop, Winbauer, Harrel, Slothower & Denison, LLP, 201 W. 7th Ave.,
PO Box 1088, Ellensburg WA 98926

16. Describe how the state of Washington caused your injuries or damages (if your injuries or damages were not caused by the State, do not use this form. You must file your claim against the correct entity). Explain the extent of property loss or medical, physical or mental injuries. Attach additional sheets if necessary.

(See attached complaint.) Damages include loss of income and earning potential, attorney's fees and related expenses, and general damages (e.g., emotional distress, harassment, humiliation, damage to reputation, anxiety, etc.).

17. Has this incident been reported to law enforcement, safety or security personnel? If so, when and to whom? Please attach a copy of the report or contact information.

No.

18. Names, addresses and telephone numbers of treating medical providers. Submit copies of all medical reports and billings.

N/A

19. Please attach documents which support the allegations of the claim.

20. I claim damages from the state of Washington in the sum of \$ over \$2,000,000.00

This Claim form must be signed by one of the following (check appropriate box).

- Claimant
- Person holding a written power of attorney from the Claimant
- Attorney in fact for the Claimant
- Attorney admitted to practice in Washington State on the Claimant's behalf
- Court-approved guardian or guardian ad litem on behalf of the Claimant

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

Signature of Claimant

Date and place (residential address, city and county)

Or



8/16/18 Ellensburg, Kittitas County, WA
Date and place (residential address, city and county)

Signature of Representative

Douglas W. Nicholson

24854

Print Name of Representative

Bar Number (if applicable)

Attachment to Washington State Tort Claim
Claimant: Manweller, Mathew Shon

13. Names and telephone numbers of all persons involved in or witness to this incident:

Trish Murphy
Northwest Workplace Law PLLC
1904 Third Avenue, Ste. 1030
Seattle WA 98101
Phone: (206) 812-4849

Alan Smith
Assistant Attorney General
800 Fifth Avenue, #2000
Seattle WA 98104
Phone: (206) 389-2099

Tim Englund
c/o CWU

Staci Sleigh-Layman
c/o CWU

Linda Schactler
c/o CWU

Charlene Andrew
c/o CWU