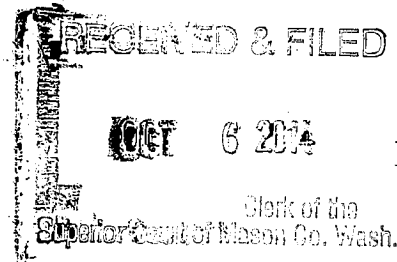


1 **RECEIVED**  
2 City Clerk's Office

3 OCT 06 2014

4 Staff Initials JK



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8 **IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON**  
9 **IN AND FOR THE COUNTY OF MASON**

10  
11 **DIANE GOOD,**

12 **Plaintiff,**

13 **V.**

14 **CITY OF SHELTON, by and through its**  
15 **CITY COMMISSION,**

16 **And**

17 **KAREN HERR, in her capacity as**  
18 **MASON COUNTY AUDITOR**

19 **Defendants.**

**NO. 14 2 00555 9**

**SUMMONS (20 days)**

20  
21 **TO THE DEFENDANTS:** A lawsuit has been started against you in the  
22 above entitled court by the plaintiff. Plaintiff's claim is stated in the written  
23 complaint, a copy of which is served upon you with this summons.

24  
25 In order to defend against this lawsuit, you must respond to the  
26 complaint by stating your defense in writing, and by serving a copy upon the  
27 person signing this summons within 20 days after the service of this summons,  
28 excluding the day of service, or a default judgment may be entered against you  
29

SUMMONS

SHAWN TIMOTHY NEWMAN  
Attorney at Law, Inc., P.S. #14193  
2507 Crestline Dr., N.W.  
Olympia, WA 98502  
PH: (360) 866-2322  
FAX: 1.866.800.9941

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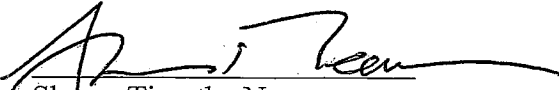
without notice. A default judgment is one where plaintiff is entitled to what he asks for because you have not responded. If you serve a notice of appearance on the undersigned person, you are entitled to notice before a default judgment may be entered.

You may demand that the plaintiff file this lawsuit with the court. If you do so, the demand must be in writing and must be served upon the person signing this summons. Within 14 days after you serve the demand, the plaintiff must file this lawsuit with the court, or the service on you of this summons and complaint will be void.

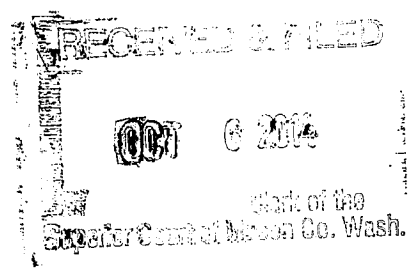
If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

This summons is issued pursuant to rule 4 of the Superior Court Civil Rules of the State of Washington.

Date: 10/6/14

  
Shawn Timothy Newman  
Washington State Director of the  
Initiative & Referendum Institute  
Attorney for Plaintiff #14193

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

**DIANE GOOD, an individual**  
  
**Plaintiff,**

**V.**

**CITY OF SHELTON, by and through its  
CITY COMMISSION,**  
  
**and**  
  
**KAREN HERR, in her capacity as  
MASON COUNTY AUDITOR,**  
  
**Defendants.**

**NO. 14 2 00555 9**  
  
**COMPLAINT  
FOR WRIT OF MANDAMUS AND  
DECLARATORY JUDGMENT**

**I. SUMMARY**

This action is brought pursuant to RCW 35.17.290 by Plaintiff, taxpayer and resident of Shelton, for a writ ordering that two proposed initiatives [Propositions 1 and 2] be placed on the ballot pursuant to RCW 35.17.260(2), specifically the February 2015 ballot or some other appropriate ballot. Additionally, Plaintiff seeks declaratory judgment, pursuant to RCW 7.24.010, that the Shelton City Commission broke the law by failing to perform its statutory duties prescribed in 35.17.260.

COMPLAINT FOR WRIT OF MANDAMUS  
OR, ALTERNATIVELY, DECLARATORY RELIEF - 1

SHAWN TIMOTHY NEWMAN  
Attorney at Law, Inc., P.S. #14193  
2507 Crestline Dr., N.W.  
Olympia, WA 98502  
PH: (360) 866-2322  
FAX: 1.866.800.9941

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**II. JURISDICTION & PARTIES**

2.1 The Superior Court has subject matter jurisdiction over this action pursuant to RCW 2.08.010, RCW 7.24.010 et seq., and RCW 35.17.290. RCW 25.17.290 confers standing on Plaintiff taxpayer and Defendant City Commission only.

2.2 Plaintiff is an individual taxpayer and resident of Shelton.

2.3 Defendant, the City of Shelton, is a Municipal Corporation of the State of Washington that has retained the commission form of government. Shelton Municipal Code §1.24.020.

2.4 Defendant, Karen Herr in her capacity as Mason County Auditor, is included for complete relief to be had. Including the Mason County Auditor in any court order would cover any incidental role the Auditor plays in placing the Propositions on the ballot.

2.5 A city that has the commission form of government automatically has the powers of initiative and referendum. RCW 35.17.220-360.

**III. GOVERNING LAW**

**RCW 35.17.260: Legislative — Ordinances by initiative petition.**

Ordinances may be initiated by petition of registered voters of the city filed with the commission. If the petition accompanying the proposed ordinance is signed by the registered voters in the city equal in number to twenty-five percent of the votes cast for all candidates for mayor at the last preceding city election, and if it contains a request that, unless passed by the commission, the ordinance be submitted to a vote of the registered voters of the city, the commission shall either:

(1) Pass the proposed ordinance without alteration within twenty days after the county auditor's certificate of sufficiency has been received by the commission; or

(2) Immediately after the county auditor's certificate of sufficiency for the petition is received, cause to be called a special election to be held on the next

1 election date, as provided in \*RCW 29.13.020, that occurs not less than forty-  
2 five days thereafter, for submission of the proposed ordinance without  
3 alteration, to a vote of the people unless a general election will occur within  
4 ninety days, in which event submission must be made on the general election  
5 ballot.

6 **RCW 35.17.290: Legislative — Initiative petition — Appeal to court.**

7 If the clerk finds the petition insufficient or if the commission refuses either to  
8 pass an initiative ordinance or order an election thereon, any taxpayer may  
9 commence an action in the superior court against the city and procure a decree  
10 ordering an election to be held in the city for the purpose of voting upon the  
11 proposed ordinance if the court finds the petition to be sufficient.

12 **RCW 7.24.010: Declaratory Judgments.**

13 Courts of record within their respective jurisdictions shall have power to  
14 declare rights, status and other legal relations whether or not further relief is  
15 or could be claimed. An action or proceeding shall not be open to objection  
16 on the ground that a declaratory judgment or decree is prayed for. The  
17 declaration may be either affirmative or negative in form and effect; and such  
18 declarations shall have the force and effect of a final judgment or decree.

19 **IV. FACTS**

20 4.1 On August 7, 2014, petitions on Propositions 1 and 2 were submitted to the City.  
21 Exhibits 1 and 2.

22 4.2 On August 22, 2014, the Mason County Auditor, Karen Herr, acting as *ex officio*  
23 supervisor of elections, certified the sufficiency of the petitions accompanying Propositions 1  
24 and 2. Exhibits 3 and 4.

25 4.3 On September 8, 2014, the City Commission unanimously voted that the  
26 Propositions are invalid and that it would not pass the Propositions or put them on the  
27 November 4, 2014 ballot.

28 4.4 As of September 24 (and to date), more than 32 days following the certification of  
29 sufficiency, the Shelton City Commission has neither passed the initiative proposed

1 ordinances without alteration, nor immediately caused the initiative proposed ordinances to be  
2 submitted without alteration to a vote of the people on the November 4, 2014 general election  
3 ballot.  
4

5 4.5 Shelton City Administrator Dave O'Leary said that the recommendation to  
6 declare both Propositions invalid may be overturned when and if a court determines the City's  
7 actions are not valid.  
8

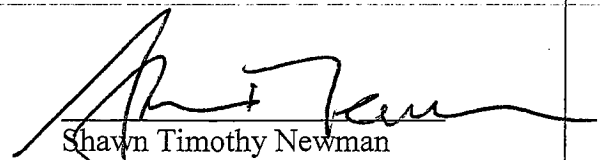
9 **V. REQUEST FOR RELIEF**

10 5.1 Plaintiff seeks a writ ordering that Defendants place the proposed ordinances on  
11 the ballot as required by RCW 35.17.260(2). Given the deadlines for ballot issuance, the  
12 plaintiff seeks to have the propositions placed on the February 2015 ballot or some other  
13 appropriate ballot.  
14

15 5.2 Plaintiff seeks declaratory judgment, pursuant to RCW 7.24.010, that the Shelton  
16 City Commission broke the law by failing to perform its statutory duties prescribed in  
17 35.17.260.  
18

19 5.3 Plaintiff seeks declaratory relief and such other and further relief as may be  
20 necessary and proper pursuant to RCW 7.24 *et seq.*, including compensatory and coercive  
21 remedies, such as damages and attorney's fees, as a result of Defendant's failure to comply  
22 with RCW 35.17.260.  
23

24 Date: 10/6/14



Shawn Timothy Newman  
Washington State Director of the  
Initiative & Referendum Institute  
Attorney for Plaintiff #14193

# **EXHIBIT 1**





# Complete Text of Proposition 1

## Collective Bargaining Transparency Act

### **Collective Bargaining — Purpose**

This chapter sets forth the policies and provisions that shall govern the process of collective bargaining, as defined in RCW 41.56.030, in the City of Shelton. The intent of this chapter is to provide an open and transparent process, to protect the rights of individual City employees, and to maintain high quality public service.

### **Collective Bargaining — Notice to employees in the bargaining unit**

The City of Shelton shall make a good faith effort to notify all members of a bargaining unit prior to any meeting between any representative of the City and the bargaining unit's bargaining representative held for purposes related to collective bargaining. The City shall notify members of the bargaining unit at least 24-hours prior to such a meeting. Each notice must include the date, time, location, and purposes of the meeting.

### **Collective Bargaining — Public notice**

The City of Shelton shall make a good faith effort to notify the public prior to any meeting between any representative of the City and a bargaining representative held for purposes related to collective bargaining. The City shall deliver, by electronic or comparable means, to each local newspaper of general circulation and local radio or television station that has on file with the City a written request to be notified of public meetings and shall post a notice of the meeting on the City's website and at the meeting location.

### **Collective Bargaining — Open meetings**

All meeting between any representative of the City of Shelton and a bargaining representative held for purposes related to collective bargaining must be open to the public. A member of the public shall not be required, as a condition to attendance, to register his or her name and other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

### **Severability**

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

# **EXHIBIT 2**



# Complete Text of Proposition 2

## Collective Bargaining Protections Act

### **Collective Bargaining — Purpose**

This chapter pertains to collective bargaining, as defined in RCW 41.56.030, in the City of Shelton. The intent of this chapter is to instruct and govern representatives of the City in collective bargaining.

### **Collective Bargaining — Free Association**

No representative of the City of Shelton shall agree to any collective bargaining agreement containing a "union security" provision or other provision which would require any public employee to associate with or make payment to any private organization as a condition of gaining or retaining public employment.

### **Collective Bargaining — Public Funds**

No representative of the City of Shelton shall agree to any collective bargaining agreement which designates or allows the expenditure of public funds for the purpose of union operations.

### **Collective Bargaining — Interruptions of public services**

No representative of the City of Shelton shall agree to any collective bargaining agreement which fails to prohibit work stoppages and strikes and to set forth remedies and penalties for the same.

### **Collective Bargaining — Violations**

(1) Any representative of the City of Shelton who violates the provisions of this chapter shall immediately cease to represent the City in collective bargaining and shall be prohibited from representing the City in collective bargaining for not less than one year. Any agreement negotiated by a representative in violation of the provisions of this chapter shall be considered ultra vires.

(2) Any official of the City of Shelton who knowingly violates the provisions of this chapter is guilty of a misdemeanor, and such conviction shall be sufficient cause for removal from office.

### **Severability**

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

# EXHIBIT 3

---



*Karen Herr*  
*Mason County*  
*Auditor*

P.O. Box 400  
411 N. 5th Street  
Shelton, WA 98584  
Phone (360) 427-9670  
Fax (360) 427-1753  
<http://auditor.co.mason.wa.us>

## Certificate of Sufficiency

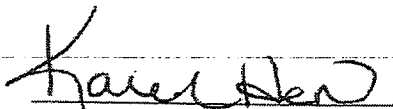
State of Washington) )  
County of Mason ) SS

This is to certify that I have examined the signatures on the attached initiative petition entitled "Proposition 1: Collective Bargaining Transparency Act" submitted by the City of Shelton.

I further certify that the total number of qualified electors who signed the petition exceeds the required 25% percent of the total votes cast for all candidates for Mayor at the last preceding city election.

- Total votes cast in 2011 Mayor's race (including write-in votes): **1926**
- Twenty-five percent of 1926 = **482**
- Valid signatures (registered voters in the City of Shelton) **551**

I hereby witness my hand and seal this 22<sup>nd</sup> of August, 2014.

  
Karen Herr  
Mason County Auditor



# Petition Result Breakdown

City of Shelton - Prop 1

Prop 1 - Collective Bargaining Transparency act

Signatures Required	482		
Raw Count	654		
Sample Size	654		
Sigs Checked	653	Percent of Sigs Checked	Percent of Sample Size
Sigs Not Checked	1		0.2 %
Sigs Valid	551	84.4 %	84.3 %
Sigs Invalid	102	15.6 %	15.6 %
Duplicated	4	1.0 %	0.6 %
Non-duplicate Invalids	98	15.0 %	15.0 %

RESULT ABBR	RESULT DESCRIPTION		
Approved	Approved	551	84.4 %
NotReg	Not Registered	61	9.3 %
OutOfDist	Out of District	34	5.2 %
Duplicate	Signed more than once	4	0.6 %
SigNoMatch	Signatures Don't Match	3	0.5 %

# **EXHIBIT 4**

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# Petition Result Breakdown

City of Shelton - Prop 2  
Collective Bargaining Protections Act

Signatures Required	482		
Raw Count	566		
Sample Size	566	<i>Percent of</i>	<i>Percent of</i>
Sigs Checked	565	<i>Sigs Checked</i>	<i>Sample Size</i>
Sigs Not Checked	1		0.2 %
Sigs Valid	483	85.5 %	85.3 %
Sigs Invalid	82	14.5 %	14.5 %
Duplicated	2	0.0 %	0.4 %
Non-duplicate Invalids	80	14.0 %	14.1 %

RESULT ABBR	RESULT DESCRIPTION		
Approved	Approved	483	85.5 %
NotReg	Not Registered	51	9.0 %
OutOfDist	Out of District	28	5.0 %
Duplicate	Signed more than once	2	0.4 %
SigNoMatch	Signatures Don't Match	1	0.2 %