

Foster, et al.

Plaintiff

v.

Flaherty, et al.

Defendant

Civil Action No. 6:11-cv-06115-AA

(If the action is pending in another district, state where:)

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: [REDACTED]

☒ **Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: See Exhibit A.

Place: Parks Bauer Sime Winkler & Fernety LLP
570 Liberty St SE, Suite 200
Salem OR 97301

Date and Time:

03/01/2013 9:00 am

☐ **Inspection of Premises:** YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45(d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 01/31/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Patrick Flaherty, who issues or requests this subpoena, are:

Keith J Bauer, Parks Bauer Sime Winkler & Fernety LLP, 570 Liberty St SE, Suite 200, Salem OR 97301 (503) 371-3502; Fax (503) 371-0429

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

EXHIBIT A

Description: The following requests are in regard to documents, Electronically Stored Information ("ESI"), or tangible items that are in your custody and control either personally or professionally and include, but are not limited to, personal and professional email accounts, websites, computers, phones, audio and video recordings and files.

The following requests refer to any and all documents (to include, but not limited to, letters, notes, communications, memorandums, electronic documents, meeting minutes, and written or recorded communications), electronically stored information ("ESI") (to include, but not limited to emails, text messages, video and audio recordings):

1) From January 1, 2010 to present, any and all documents and ESI regarding:

- a. Patrick Flaherty;
- b. Valerie Wright;
- c. The 2010 Deschutes County District Attorney campaign ("campaign");
- d. The 2010 Deschutes County District Attorney election ("election");
- e. Flaherty's assuming the position of Deschutes County District Attorney in January of 2011;
- f. The transition of the office to Patrick Flaherty;
- g. Oregon State Bar complaints related to Patrick Flaherty; and
- h. Oregon State Police investigation related to Patrick Flaherty.

2) From January 1, 2010 to present, any and all documents and ESI regarding anything related to inquiries or investigations of any kind

related to Patrick Flaherty or the Deschutes County District Attorney's Office ("District Attorney's Office").

3) From January 1, 2010 to present, all documents and ESI regarding any communications with anyone from Deschutes County Personnel Department/Human Resources (for example, Debbie Legg and Tracy Scott) regarding:

- a. Patrick Flaherty;**
- b. Michael Dugan;**
- c. The Deputy District Attorneys' ("DDA") collective bargaining agreement ("CBA"); and**
- d. The DDA union;**
- e. Darryl Nakahira;**
- f. Jody Vaughan;**
- g. Brentley Foster;**
- h. Phil Duong; and**
- i. Mary Anderson.**

4) From January 1, 2010 to present, all documents and ESI regarding any communications with anyone to or from Deschutes County Legal Counsel including, but not limited to: Mark Pilliod, Chris Bell, Darryl Nakahira and Connie Scorza, regarding:

- a. Patrick Flaherty;**
- b. The DDA union;**
- c. Jody Vaughan;**
- d. Brentley Foster;**
- e. Phil Duong;**
- f. Darryl Nakahira; and**
- g. Mary Anderson.**

5) From January 1, 2010 to present, all documents and ESI regarding any communications with anyone to or from Oregon Department of Justice including, but not limited to: John Kroger, Mary Williams, Steve Krohn, David Kramer, Sean Riddell and Darin Tweedt, regarding:

- a. Patrick Flaherty;**
- b. the 2010 DA election;**
- c. the 2010-2011 transition of Patrick Flaherty into the District Attorney's Office;**
- d. The DDA union;**
- e. Darryl Nakahira;**
- f. Jody Vaughan;**
- g. Brentley Foster;**
- h. Phil Duong; and**
- i. Mary Anderson.**

6) From January 1, 2010 to present, all documents and ESI regarding any communications with anyone from Deschutes County Board of Commissioners regarding;

- a. Patrick Flaherty;**
- b. Valerie Wright;**
- c. the 2010 DA election;**
- d. the 2010-2011 transition of Patrick Flaherty into the District Attorney's Office;**
- e. the DDA's CBA;**
- f. the DDA union;**
- g. Darryl Nakahira;**
- h. Jody Vaughan;**
- i. Brentley Foster;**

j. Phil Duong; and

k. Mary Anderson.

7) All documents and ESI from January 2010 to present regarding any communications with anyone who is formerly or currently with the Deschutes County DA's Office including, but not limited to: Jody Vaughan, Brentley Foster, Phil Duong, Josh Marquis, patty Hendrix, Debby Jenson, Sharon Sweet regarding:

a. Patrick Flaherty;

b. Valerie Wright;

c. the 2010 DA election;

d. the 2010-2011 transition of Patrick Flaherty into the District Attorney's Office;

e. the DDA's CBA;

f. Document and ESI retention, destruction or deletion;

g. the DDA union;

h. Darryl Nakahira;

i. Jody Vaughan;

j. Brentley Foster;

k. Phil Duong; and

l. Mary Anderson.

8) All documents and ESI from January 2010 to present regarding any communications with anyone who is formerly or currently an employee, agent or independent contractor with Deschutes County to include, but not limited to: DDA's Joe Sadony, Michael Maier, Dave Kanner, Debbi Jensen, Les Stiles, Jerry Stone, Sharon Sweet, anyone from the County Personnel Department and Debi Harr regarding:

a. Patrick Flaherty;

- b. Valerie Wright;**
 - c. the 2010 DA election;**
 - d. the 2010-2011 transition of Patrick Flaherty into the District Attorney's Office;**
 - e. the DDA's CBA;**
 - f. Document and ESI retention, destruction, deletion, requests for production of documents/ESI, requests for audit logs, backup/archive media/data;**
 - g. the DDA union;**
 - h. Darryl Nakahira;**
 - i. Jody Vaughan;**
 - j. Brentley Foster;**
 - k. Phil Duong; and**
 - l. Mary Anderson.**
- 9) From January 1, 2010 to present, all documents and ESI regarding any communications with anyone from the Offices of Andrew Altschul and Judy Snyder or any attorney that formerly or currently represents the DDA union (for example, Becky Gallagher) regarding:**
 - a. Patrick Flaherty;**
 - b. the 2010 DA election;**
 - c. the 2010-2011 transition of Patrick Flaherty into Office;**
 - d. the DDA's CBA;**
 - e. Document and ESI retention, destruction or deletion**
 - f. the DDA union; and**
 - g. Darryl Nakahira;**
 - h. Jody Vaughan;**
 - i. Brentley Foster;**

j. Phil Duong; and

k. Mary Anderson.

- 10) All documents and ESI regarding the retention of Marla Rae's office inspection/investigation from the year 2000 to present. This request includes [REDACTED] determinations through Marla Rae's process and her actual findings and conclusions.**
- 11) All documents and ESI regarding JoAnn Mann's counseling and team building with the misdemeanor DDAs in the 2005 or 2007 timeframe. This includes [REDACTED] her functions and duties performed and her recommendations and conclusions regarding Jody Vaughan.**
- 12) All documents/ESI regarding Jody Vaughan's OSP complaints during the Choate case and any documents/ESI related to therapy/counseling with Dr. David Goldstein.**
- 13) All documents and ESI from January 2010 to present regarding Patrick Flaherty, the transition of the District Attorney's office to Patrick Flaherty, and any observations, predictions, concerns or complaints regarding Patrick Flaherty and any matter related to the District Attorney's Office.**
- 14) All documents and ESI from January 2010 to present regarding document/ESI retention or destruction directives to include DDA's and District Attorney's Office staff preserving or deleting documents/ESI.**
- 15) Any and all documents and ESI referencing, or in any way relating to, the above captioned case: 6:11-cv-06028-HO. This includes, but is not limited to, any communications, documents/ESI with:**

- a. Any of the named parties in this case (Brentley Foster, Jody Vaughan, Phil Duong);
- b. Oregon Department of Justice;
- c. Plaintiffs' attorneys Andrew Altschul and Judy Snyder and any of their agents or representatives;
- d. Any past or present employee, representative or agent of Deschutes County including anyone from the Board of Commissioners or County Administrators (for example, Dennis Luke, Alan Unger, Tammy Baney, Tony Debone, Mark Pilliod, Darryl Nakahira, Chris Bell, Erik Kropp, Michael Maier, Dave Kanner, etc); and
- e. Any current or former employee of the Deschutes County District Attorney's Office.

16) Any and all document and ESI evidencing communications between Michael Dugan and Mark Pilliod.