

# Jefferson County to settle public records litigation with D'Amico

By Jeannie McMacken

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Joe D'Amico

PORT TOWNSEND — For the second time in two weeks, Jefferson County commissioners have voted to settle potentially expensive public records act litigation threatened by attorney Greg Overstreet on behalf of his client Joseph D'Amico.

Commissioners David Sullivan and Kathleen Kler voted to approve the settlement Tuesday. Commissioner Kate Dean voted against the motion on the basis that the county government had done nothing wrong.

D'Amico is owner/operator of Security Services Northwest, Inc. and Fort

Discovery, a gun range and training facility formerly located in Discovery Bay, now in the permitting process for a site near Tarboo Ridge.

By agreeing with the settlement, the county disputes any violation of the state's Public Records Act.

It was determined that the cost of litigating the case would be much more than the settlement amount of \$6,127, which covers D'Amico's attorney's fees and filing costs.

On April 16, county commissioners agreed to settle another Public Records Act violation complaint for \$6,165.

In that settlement, the county provided unredacted copies of personal emails D'Amico requested from District 3 Commissioner Kler.

The county had previously supplied the documents with redactions of personal health information.

On Jan. 4, Overstreet and D'Amico requested all emails, text messages and correspondence among volunteer investigator Bob Gebo, Jefferson County Sheriff David Stanko, Detective Art Frank and deputy prosecuting attorney Anna Phillips from 2014 to the present related to such search terms as USCG, U.S. Border Patrol, U.S. Customs, Washington State Patrol, U.S. Army, U.S. Marine Corps, Reed Gunstone and Larry Setchell.

County officials, who said they conducted a thorough search, provided 127 emails and other electronic correspondence, plus an electronic file with an additional 28 emails.

Portions of 38 pages of comments were redacted under an exemption to protect ongoing law enforcement investigations as provided by the Public Records Act RCW 42.56.240 (1).

A filing on April 26 by Overstreet and D'Amico challenged the redactions and declared, "There is no criminal investigation."

Jefferson County's Chief Civil Deputy Prosecuting Attorney Philip Hunsucker disagreed.

"Yes, there is currently an ongoing investigation," Hunsucker said.

In accepting the settlement offer, the county disagreed with Overstreet and D'Amico's claims that the redactions did not comply with the Public Records Act and agreed to pay attorney fees and court costs to settle the dispute. The prosecuting attorney and county sheriff authorized the release of those specific records related to the ongoing criminal investigation and the county will provide D'Amico unredacted copies of the emails in dispute.

Overstreet and D'Amico have filed 38 public records requests with the county since Jan. 1, 2018. In addition, they have filed a \$1 million claim for damages alleging a First Amendment rights violation stemming from a Feb. 26 Board of County Commissioners meeting during which D'Amico addressed the the board and members of the public during the public

comment session.

They also have filed a \$100 million claim with the county, alleging tortious interference with D'Amico's business.

According to County Administrator Philip Morley, there has been no response from Overstreet to a question about how they justify the amount of the damage claim.

"The county disputes any liability or wrongdoing in connection with these claims," Morley said.

Overstreet said he was, "hoping to get the unredacted records by the end of the day today [Thursday]."

"We are glad that this case was resolved efficiently. It makes sense for both sides. The county won't have to pay a large amount of attorney's fees and and Joe D'Amico got the public records to which he is entitled to receive under the law."

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