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CITIZEN ACTION DEFENSE FUND FILES BRIEF IN PUBLIC RECORD SUIT AGAINST GOVERNOR'S OFFICE WITH \$71 MILLION MAXIMUM PENALTY

Olympia, Washington — March 1, 2023 — Today, the Citizen Action Defense Fund (CADF) announced that it had filed an initial brief in its public records suit against the Governor's office, noting that if the Court imposed the maximum penalty available under the law it would result in a jaw-dropping total of \$71, 555,400. CADF is also seeking its attorney fees and costs for the litigation which could be an additional tens of thousands of dollars.

The suit was originally filed last December against the Office of Financial Management (OFM), which is part of the Governor's office, for failing to provide public records in connection with the Governor's negotiations with public sector employee unions earlier this year that led to biennial agreements with \$997 million in increased salary and benefits for state employees.

Earlier last year, OFM began negotiations with public sector unions on contracts for the next biennial budget cycle. The behind closed doors agreements, that were finalized and signed by the parties, resulted in nearly ten-figure increases for public sector union membership in salary and benefits. The agreements were politically controversial as the unions made significant political donations to the Governor and his allies in the months leading up to the November 2022 elections. The Washington Federation of State Employees trumpeted the agreements as "the largest compensation package in [its] history."

On October 20, 2022, CADF learned that OFM was refusing to provide copies of the state and unions' original offers in the negotiations until after the Legislature approves the entire General Fund state budget during the upcoming 2023 session and the Governor signs it into law. CADF submitted a new request pointing out that the public records act contains no such limitations on public records. OFM continued to withhold the documents.

According to discovery provided by OFM, over five thousand pages of records have been withheld for over four months at a maximum penalty of \$100 per page per day. That totals to over \$71 million in potential penalties that would be paid by the Governor's office to CADF if the court imposed the full amount available under the Public Records Act. Even if the court went with a more conservative penalty noted in the brief of \$6 per violation per record the fine would still be over \$800,000.

"The State's Public Records Act and its penalties exist to ensure transparency in our government and make sure that the people can get information in a timely way to be able to hold its government

accountable. Here, the Governor's Office of Financial Management appears to be willing to gamble with tens of millions of dollars in penalties for its refusal to provide records from its negotiations for a billion dollars in taxpayer money to some of his largest political donors," said Jackson Maynard, Executive Director of CADF. "The agreements are signed and the negotiations are over – so there are no exemptions that apply. Yet, OFM continues stonewalling the record request for several months. OFM should not be able to rewrite the law to suit the Governor's political needs."

CADF is an independent, nonprofit organization based in Washington state that supports and pursues strategic, high-impact litigation in cases to advance free markets, restrain government overreach, or defend constitutional rights. The government watchdog nonprofit files lawsuits, represents affected parties, and intervenes in cases when the state enacts laws that violate the state or federal constitutions, when government officials take actions that infringe upon the First Amendment or other constitutional rights, or when agencies promulgate rules in violation of state law.

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