



FOR IMMEDIATE RELEASE
May 31, 2024

CADF Fires Back in Response to WSDOT and OFM’s Motion to Dismiss in Whistleblower Lawsuit

Both sides will present their arguments at a hearing set for late June in Thurston County Superior Court

Olympia, Washington — May 31, 2024 — This morning, the Citizen Action Defense Fund (CADF) filed a response to the Washington State Department of Transportation’s (WSDOT) and the Governor’s Office of Financial Management’s (OFM) Motion to Dismiss in Scott Smith’s Whistleblower lawsuit against them.

Background

In March 2024, CADF filed a lawsuit against WSDOT and OFM on behalf of Scott Smith, who earlier last year was pressured by the Governor’s Office of Financial Management and the Washington State Department of Transportation to change the numbers in his reports that indicated that the cap-and-trade program was significantly impacting the cost of fuel. This occurred while the Governor was publicly accusing the fuel industry of lying about the cost of the program.

When Smith refused to change his numbers, he was forced out of state service, as WSDOT retaliated against him by eliminating his job, denying him leave (that he was entitled to take) to visit his sick mother, denying him basic software upgrades that allowed him to do his job, and so much more.

In response to the whistleblower suit, WSDOT and OFM filed a Motion to Dismiss, claiming that Scott wasn’t a whistleblower under the law, even though he filed a report with the state auditor about government wrongdoing. Bizarrely, WSDOT and OFM further argued that none of the adverse acts they took can be considered retaliation. CADF’s response to the motion makes the legal case for Scott’s claims against both WSDOT and OFM.

“I think what is most disturbing about the state’s arguments here is that they are not just wrong on the law, but they send a horrible message to state employees that they have no rights or protections – they actually argue that it is not gross mismanagement or at all wrongful to pressure a state employee to lie in a report for political reasons,” said Jackson Maynard, Executive Director and Counsel for CADF. “They even claim that eliminating a state worker’s position, denying him a promotion, denying him basic software to do his job, and refusing to allow him leave to visit his elderly mother on Thanksgiving are not

retaliatory or against the law,” he continued. “It’s insulting and wrong. We stand with Scott Smith and look forward to advocating for him in court next month.”

Investigation Report

Earlier this month, the investigator WSDOT hired and paid for released an incomplete ninety-one (91) page report. Although some media reports indicated that the report supported WSDOT’s version of events, it’s clear those outlets didn’t read the report in full – a careful read shows that it actually corroborates many of the claims Smith made in the suit.

In addition, many witnesses refused to participate in the investigation, and the report itself confirms that its conclusions might have been different, had all witnesses given statements.

“The report itself is unfounded and the summary is misleading, but the content of the report is consistent with Scott’s claims and confirms he did, in fact, endure a lot of hardship simply for acting with integrity and doing the right thing by not bowing to political pressure,” said Maynard. “Ultimately, the facts that matter will be those proved in a court of law.”

Hearing Details

The hearing on the Motion to Dismiss is set to take place in Thurston County Superior Court and will be open to the public either in person or via Zoom:

Date: June 21, 2024

Time: 9:00 a.m.

Address: 2000 Lakeridge Dr SW
Olympia, WA, 98502

Zoom: 846-3408-9705#
Passcode: 1234

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For more information:

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