

Legislative Ethics Board



BOARD MEMBERS:
REP. LAURIE DOLAN
EUGENE GREEN
SEN. JIM HONEYFORD
JUDGE TERRY LUKENS (ret.)
PAMELA MADSON
DAN McDONALD
SEN. JAMIE PEDERSEN
DEBBIE REGALA
REP. LUANNE VAN WERVEN

101 LEGISLATIVE BUILDING
PO BOX 40482
OLYMPIA, WA 98504-0482
360-786-7343
www.leg.wa.gov/leb
JENNIFER STRUS - COUNSEL
Jennifer.Strus@leg.wa.gov

COMPLAINT 2020 – No. 1 *In re Speaker of the House, Jane Doe* February 27, 2020

BOARD COUNSEL'S ORDER OF DISMISSAL

I. NATURE OF COMPLAINT

The complaint alleges that the Speaker of the House of Representatives (unnamed) violated RCW 42.52.430 and RCW 42.52.030 in failing to act on tort claims submitted to the Speaker by the state Tort Claims Administrator. The Complainant also invokes the whistleblower statute to shield his identity in filing this complaint.

II. JURISDICTION

The Board has personal jurisdiction over the Respondent; however, it lacks subject matter jurisdiction over tort claims filed against the state.

III. PROCEDURAL HISTORY

The complaint was received by Board counsel on February 11, 2020.

IV. FINDINGS OF FACT

There is reasonable cause to believe the following are the pertinent facts of the case.

1. The Complainant is not a state employee but is an inmate in the state prison system.
2. The Respondent is identified by title but not by name so it is unclear against which Speaker of the House the complaint is lodged.
3. The only time tort claims are filed with the legislature are when the state Office of Risk Management (ORM) files sundry claims at the beginning of every legislative session.
4. According to ORM, it has received 237 tort claims from Complainant, all of which have been denied and closed.
5. The ORM has never received any sundry claims from Complainant and has not submitted any of his 237 tort claims to the legislature.

V. ANALYSIS AND CONCLUSIONS OF LAW

RCW 42.52.030 provides in pertinent part as follows:

(1) No state officer or state employee, except as provided in subsection (2) of this section, may be beneficially interested, directly or indirectly, in a contract, sale, lease, purchase, or grant that may be made by, through, or is under the supervision of the officer or employee, in whole or in part, or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in the contract, sale, lease, purchase, or grant.

There are no facts which would indicate that the Respondent was beneficially interested in keeping Complainant's tort claims from being paid through the sundry claims process. In fact, according to the ORM, no sundry claims on Complainant's behalf were ever submitted to the legislature; therefore, it is unlikely the Respondent was ever aware that Complainant filed any tort claims with the state.

RCW 42.52.430 provides the process for a public hearing in handling an ethics complaint. Since this is the first complaint filed with the Board alleging this set of facts, an allegation pertaining to the public hearing process is premature.

RCW 42.52.410 provides that a state employee who files an ethics complaint is entitled to whistleblower protection. Complainant is not a state employee; therefore, he is not entitled to whistleblower protection in filing this complaint.

RCW 42.52.320 limits the jurisdiction of the Legislative Ethics Board to alleged violations of that chapter (RCW 42.52) and related rules, by legislators and employees of the legislative branch of government. The Ethics Act does not address a legislator's failure to act upon a tort claim as expressed in the complaint and therefore the complaint fails to state an alleged violation of the Ethics Act over which the Board would have jurisdiction.

VI. CONCLUSION AND ORDER

Pursuant to RCW 42.52.425 and Legislative Ethics Board Rule 1.D., Board Counsel has the authority to dismiss this complaint. The Board lacks subject matter jurisdiction over the facts alleged in the complaint.

IT IS HEREBY ORDERED that this complaint be dismissed.



Jennifer A. Strus
Board Counsel

DATE: 2/27/20