

**The Sheridan Law Firm, P.S.**

Attorneys at Law  
Hoge Building, Suite 1200  
705 Second Avenue  
Seattle, WA 98104  
www.sheridanlawfirm.com

Tel: 206-381-5949

Fax: 206-447-9206

June 25, 2015

VIA CERTIFIED MAIL-RETURN RECEIPT  
AND EMAIL [WashingtonStateTortClaimE-Filing@des.wa.gov](mailto:WashingtonStateTortClaimE-Filing@des.wa.gov)

Department of Enterprise Services  
Office of Risk Management  
1500 Jefferson Street SE  
MS 41466  
Olympia, WA 98504

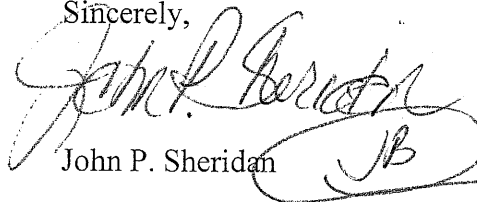
Re: Donald Gillespie v. State of Washington

Dear Risk Manager:

The Sheridan Law Firm represents Donald Gillespie with regard to his tort claims against the State of Washington. I am enclosing the State's Standard Tort Claim Form executed by Mr. Gillespie.

Please provide written confirmation of receipt of the above and direct all future communications regarding this matter to the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "John P. Sheridan". The signature is fluid and cursive, with a large initial "J" and "S".

John P. Sheridan

JPS:jb

Enclosure

cc via email: Joseph M. Diaz  
Linda Foster  
Christopher Lanese  
Tina Sroor  
Alica Young

### STANDARD TORT CLAIM FORM

General Liability Claim Form #SF 210

Pursuant to Chapter 4.92 RCW, this form is for filing a tort claim against the state of Washington. Some of the information requested on this form is required by RCW 4.92.100 and may be subject to public disclosure.

PLEASE TYPE OR PRINT CLEARLY IN INK

**Mail or deliver original claim to** Department of Enterprise Services  
 Office of Risk Management  
 1500 Jefferson Street SE  
 MS 41466  
 Olympia, Washington 98504-1466  
 Fax: 360-407-8022  
 Email: WashingtonStateTortClaimE-Filing@des.wa.gov

Business Hours: Monday – Friday 8:00 a.m. – 5:00 p.m.  
Closed on weekends and official state holidays.

1. Claimant's name: Gillespie Donald Lee 07/03/1958  
Last name First Middle Date of birth (mm/dd/yyyy)

2. Inmate DOC number (if applicable): N/A

3. Current residential address: 1514 Eastlake Drive, Bremerton, WA 98312

4. Mailing address (if different): c/o Sheridan Law Firm, 705 Second Avenue, Suite 1200, Seattle, WA 98104

5. Residential address at the time of the incident: N/A  
(if different from current address)

6. Claimant's daytime telephone number: \_\_\_\_\_ (206) 381-5949  
Home Business or Cell

7. Claimant's e-mail address: c/o jack@sheridanlawfirm.com

8. Date of the incident: \_\_\_\_\_ Time: \_\_\_\_\_  a.m.  p.m. (check one)  
(mm/dd/yyyy)

9. If the incident occurred over a period of time, date of first and last occurrences:  
 from 06/01/2009 Time: \_\_\_\_\_  a.m.  p.m.  
(mm/dd/yyyy) (mm/dd/yyyy)

to Continuing-present Time: \_\_\_\_\_  a.m.  p.m.  
(mm/dd/yyyy) (mm/dd/yyyy)

10. Location of incident: WA Kitsap County WSFDOT  
State and county City, if applicable Place where occurred

11. If the incident occurred on a street or highway:

N/A

Name of street or highway	Milepost number	At the intersection with or nearest intersecting street
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12. State agency or department alleged responsible for damage/injury:

Washington State Ferries Department of Transportation, Eagle Harbor Division

13. Names, addresses and telephone numbers of all persons involved in or witness to this incident:

See attached

14. Names, addresses and telephone numbers of all state employees having knowledge about this incident:

See attached

15. Names, addresses and telephone numbers of all individuals not already identified in #13 and #14 above that have knowledge regarding the liability issues involved in this incident, or knowledge of the Claimant's resulting damages. Please include a brief description as to the nature and extent of each person's knowledge. Attach additional sheets if necessary.

See attached

16. Describe the cause of the injury or damages. Explain the extent of property loss or medical, physical or mental injuries. Attach additional sheets if necessary.

See attached



Don Gillespie Tort Claim

14) Names, addresses and telephone numbers of all state employees having knowledge about this incident:

Washington State Ferries:

Stephen Chaussee	
Jack Nannery	206-780-3120
Jackie Beddo	206-515-3790
Vern Day	206-780-3101
Steve Carpine	
Ranny "RJ" Kelly	206-780-3130
Bob Orr	206-780-3115
Dave Seibert	206-780-3124
Paul Brodeur	206-515-3863
David Mosely	206-515-3401
John Envoldesen	206-780-3138
Dana Denune	206-780-3120
Paul Galalon	206-440-4059
Dave Stern	206-780-3180

State Auditor's Office Investigators:

LaRene Barlin  
Sandra Miller  
Tracy K. Aga

15) Other Witnesses:

Other witnesses could include all of the persons who testified at the *Chaussee v. State* trial.

16) Description of the Incidents

I am a long-term employee of the Washington State Ferries who assisted in the submission of a whistleblower complaint, which was delivered to the State Auditor's Office (SAO) in May 2008. Part of the submission was a handwritten "Whistleblower Reporting Form" authored by myself. The complaint was submitted with the intent that the persons submitting the complaint would remain anonymous. The substance of the complaint was that co-worker Jack Nannery was committing fraud by stealing time from the State by leaving work early to coach a high school baseball team, and using an agency vehicle to attend practices and ballgames.

The complaint was investigated by the SAO in May 2009, and the SAO issued a report finding that Mr. Nannery had engaged in improper governmental action. Steve Chaussee was perceived to be the whistleblower and was demoted in September 2009.

On February 28, 2013, as a part of its summary judgment motion seeking to dismiss the *Chaussee v. State* case, Vern Day filed a Declaration on behalf of the State, which included as an exhibit the handwritten Whistleblower complaint. Mr. Chaussee informed me of this filing sometime after February 28, 2013. This was the first time that I had notice that the handwritten complaint had been transmitted to management in violation of the law, and that the State had made the whistleblower complaint as part of the public court file in the *Chaussee v. State* whistleblower case (the State made no effort to file the Day Declaration, or the handwritten complaint, under seal, and when it was released to Mr. Chaussee in discovery, it was not stamped as confidential under the protective order).

In fact, according to Mr. Day's sworn testimony, he received the handwritten whistleblower complaint in June 2009 as part of an 800 page investigative file sent to WSDOT Manager Kathleen Flynn Mahaffey by SAO Special Investigations Coordinator Julie Cooper.

The testimony at the *Chaussee* trial did not resolve how the handwritten whistleblower complaint was taken out of SAO confidential files and put into the hands of Ferry management, except that trial testimony established the 800 page investigative file went from Mahaffey's office to Ferry HR Manager Jackie Beddo, and then to Vern Day. Mr. Day testified that after reviewing the 800 page investigative file, he sent it on to his boss, Paul Brodeur. At trial, Mr. Brodeur denied receiving the 800 page investigative file, but admitted that Mr. Day brought him the handwritten whistleblower complaint and identified my handwriting. The internal distribution and publication of the handwritten whistleblower complaint may have been much more extensive than disclosed at the *Chaussee* trial, but this is what is known without conducting any discovery.

At trial, Mr. Day verified that he knew I was the whistleblower, and that he knew that as a fact since June 2009.

Q. And whose handwriting did you perceive it was when you saw this?

A. Mr. Gillespie's.

Q. And this is in June of 2009, correct?

A. Yes.

Day Trial Testimony at 18:6-10.

No one in Ferry management told me that the handwritten whistleblower complaint had been released in violation of the law. No one at the Ferries or at WSDOT told the SAO that the handwritten whistleblower complaint had been released in violation of the law. No one at the Ferries or at WSDOT sought to keep the handwritten whistleblower complaint confidential, or sought to destroy it, or sought to limit its dissemination.

From the time I assisted in the 2008 filing of the whistleblower complaint, I lived in fear of retaliation. I experienced emotional harm and events that I later understood to be retaliation, but until the Day declaration filing, I was unable to link the actions of management to retaliation. In

fact, once I learned of the link, I felt somewhat relieved, and as the *Chaussee* case got closer to trial, management reduced their harassing conduct. I also experienced damage to my reputation, as I was treated like I could do nothing right.

Some examples of the mistreatment perpetrated by management following the whistleblower complaint are as follows:

- The lock shop, where I worked, and the carpenter shop were separated;
- I was no longer allowed to work as temporary foreman, lead man, or perform other work at the carpenter shop as I had done before, resulting in a minimum 70% reduction in my overtime pay;
- These changes also decreased my chances for promotion, as I no longer had supervisory experience opportunities. Meanwhile, less experienced employees were allowed to fill these temporary opportunities;
- I was treated with animosity by management.

These adverse changes were made by my supervisors, while Jack Nannery, the subject of the whistleblower complaint, was moved by management to the more lucrative carpenter shop position, which permitted him to receive extensive overtime.

Some of the following retaliatory actions which apply to this claim:

- (i) Denial of adequate staff to perform duties;
- (ii) Frequent staff changes;
- (iii) Frequent and undesirable office changes;
- (iv) Refusal to assign meaningful work;. . .
- (vi) Demotion;
- (vii) Reduction in pay;
- (viii) Denial of promotion;. . .
- (xi) Denial of employment;
- (xii) A supervisor or superior behaving in or encouraging coworkers to behave in a hostile manner toward the whistleblower;
- (xiii) A change in the physical location of the employee's workplace or a change in the basic nature of the employee's job, if either are in opposition to the employee's expressed wish;
- (xiv) Issuance of or attempt to enforce any nondisclosure policy or agreement in a manner inconsistent with prior practice; or
- (xv) Any other action that is inconsistent compared to actions taken before the employee engaged in conduct protected by this chapter, or compared to other employees who have not engaged in conduct protected by this chapter.

## **Claims**

I have a claim of whistleblower retaliation as a perceived whistleblower and a claim for invasion of privacy.

20. My lost wages are believed to be about \$40,000, and emotional harm is calculated by the jury after a finding of liability. In *Chaussee v. State*, it was determined to be \$1,000,000. Here, the amount could be more or less.