



PRA LITIGATION EACH CASE IS UNIQUE

PRA Litigation Through The Attorney's Eyes



AGENDA

- Introduction
- Pleadings - Complaint & Answer
- Discovery
- Resolution – Hearings & Appeals
- Resolution – Settlements
- Third Party Litigation



PRESENTERS AND GUIDES

Jeff Myers

Law, Lyman, Kamerrer, & Bogdanovich PS

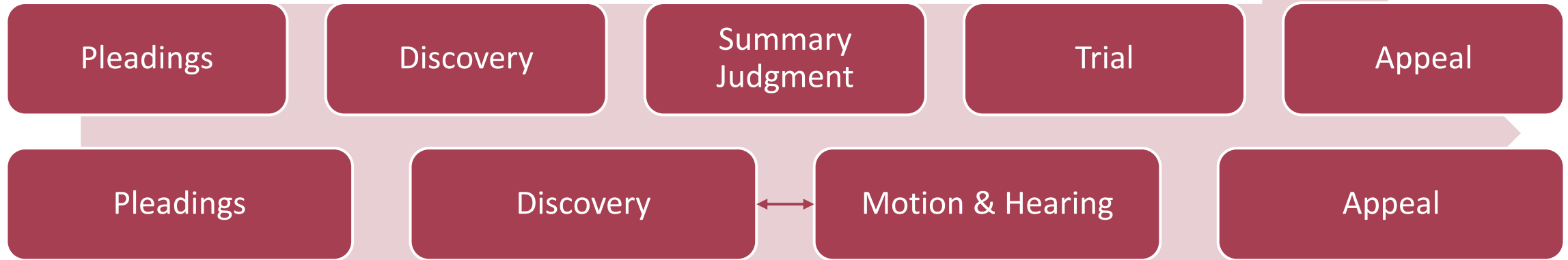
Morgan Damerow

Attorney Generals Office of Washington

This presentation is educational only and is not legal advice or a legal opinion. The PRA changes over time. Later court decisions, or changes in statutes, can impact the law and in doing so, agency and individual's obligations. Each case must be independently assessed and evaluated.



TYPICAL CIVIL LITIGATION



TYPICAL PRA LITIGATION

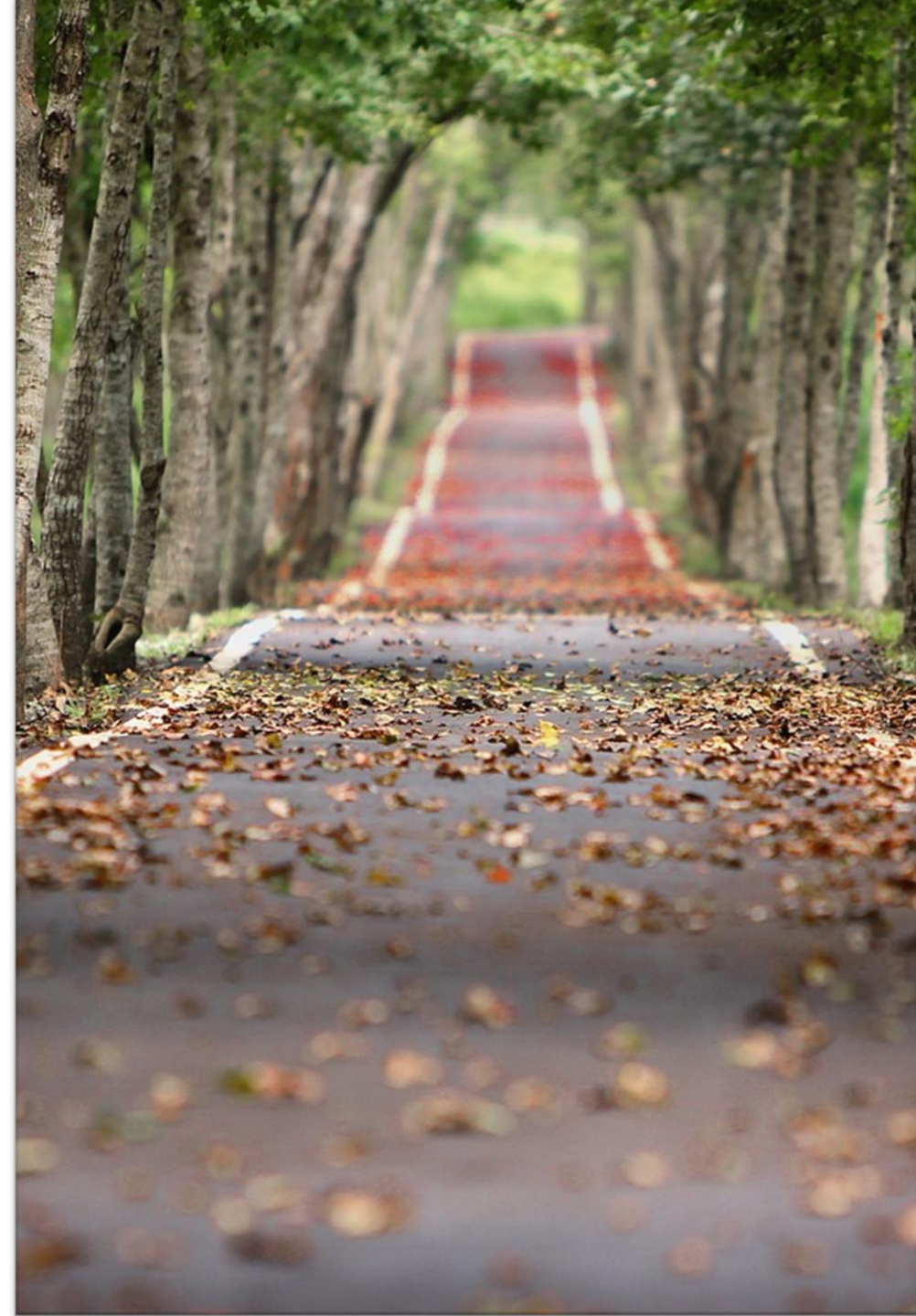
CIVIL RULES APPLY IN PRA LITIGATION IF NOT INCONSISTENT WITH THE PRA.

PRA CLAIMS MAY BE ONE OF MANY CLAIMS IN A LAWSUIT.

PLEADINGS

COMPLAINT & ANSWER

THE JOURNEY BEGINS



EVALUATE THE COMPLAINT

Procedural

- Service of Process
- Jurisdiction & Venue
- Properly Executed

Analyze Facts

- Parties
- Statement of Facts

Assess Claims

- Estimate of Time
- Denial of Access
- Estimate of Charges

Identify Defenses

- Statute of Limitations
- Improper Venue
- Procedural Defect
- Failure to Join a Party
- Failure to State a Claim

PRO PLAYS A PIVOTAL ROLE

EDUCATE THE ATTORNEY – GATHER FACTS

IDENTIFY KEY INDIVIDUALS

DRAFT AND FILE AN ANSWER

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FILED
2025 FEB 18 01:06 PM
KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE #: 25-2-02824-1 SEA

Hon. Karen Matson Donohue

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

GLEN STELLMACHER,

Plaintiff,

vs.

CITY OF SEATTLE,

Defendant.

No. 25-2-02824-1 SEA

CITY OF SEATTLE'S ANSWER

Defendant City of Seattle ("the City") hereby answers Plaintiff's Complaint as follows:

INTRODUCTION

The precatory statements and argument contained in this section do not require a response. To the extent a response is required, the City denies the statements in this paragraph.

I. JURISDICTION AND VENUE

1.1 The City admits the allegations in paragraph 1.1 of Plaintiff's Complaint.

1.2 The City admits the allegations in paragraph 1.2 of Plaintiff's Complaint.

A circular diagram with a central dark red circle containing the word "Answer" in white. Surrounding this central circle are four smaller dark red circles, each containing a response option in white text. These circles are connected by a light red arc. The options, starting from the top and moving clockwise, are: "Admit", "Calls for Legal Conclusion", "Deny", and "Lack of Knowledge".

20-DAY
DEADLINE

MAY FILE A CR 12(B)(6) MOTION TO DISMISS



DISCOVERY

FINDING FACTS, EVIDENCE AND
OTHER INFORMATION

DISCOVERY

“Each party may in effect be called upon ... to lay all his cards upon the table, the important consideration being who has the stronger hand, not who can play the cleverer game.”

Edson Sunderland

Purpose

Allows the parties to gain access to all relevant evidence before trial. Permits access to facts. Promotes resolution.

Discovery in PRA Litigation

Requester Initiated Discovery
Agency Initiated Discovery

Scope

Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense.



RESOLUTION

HEARINGS AND APPEALS

HEARING OPTIONS

Order to Show Cause

- Only available to Requestors, RCW 42.56.550 (1) & (2)

Motion for Judicial Review

- Parallel show cause procedure for agencies. RCW 42.56.550(3) + CR(7)(b)

Hearing with live testimony.

- Allows for in person judicial assessment of witnesses

Summary Judgment

- Facts construed in favor of the non-moving party
- Must show that material facts not disputed

In-camera Review

- Mechanism for court to review records and asserted exemptions

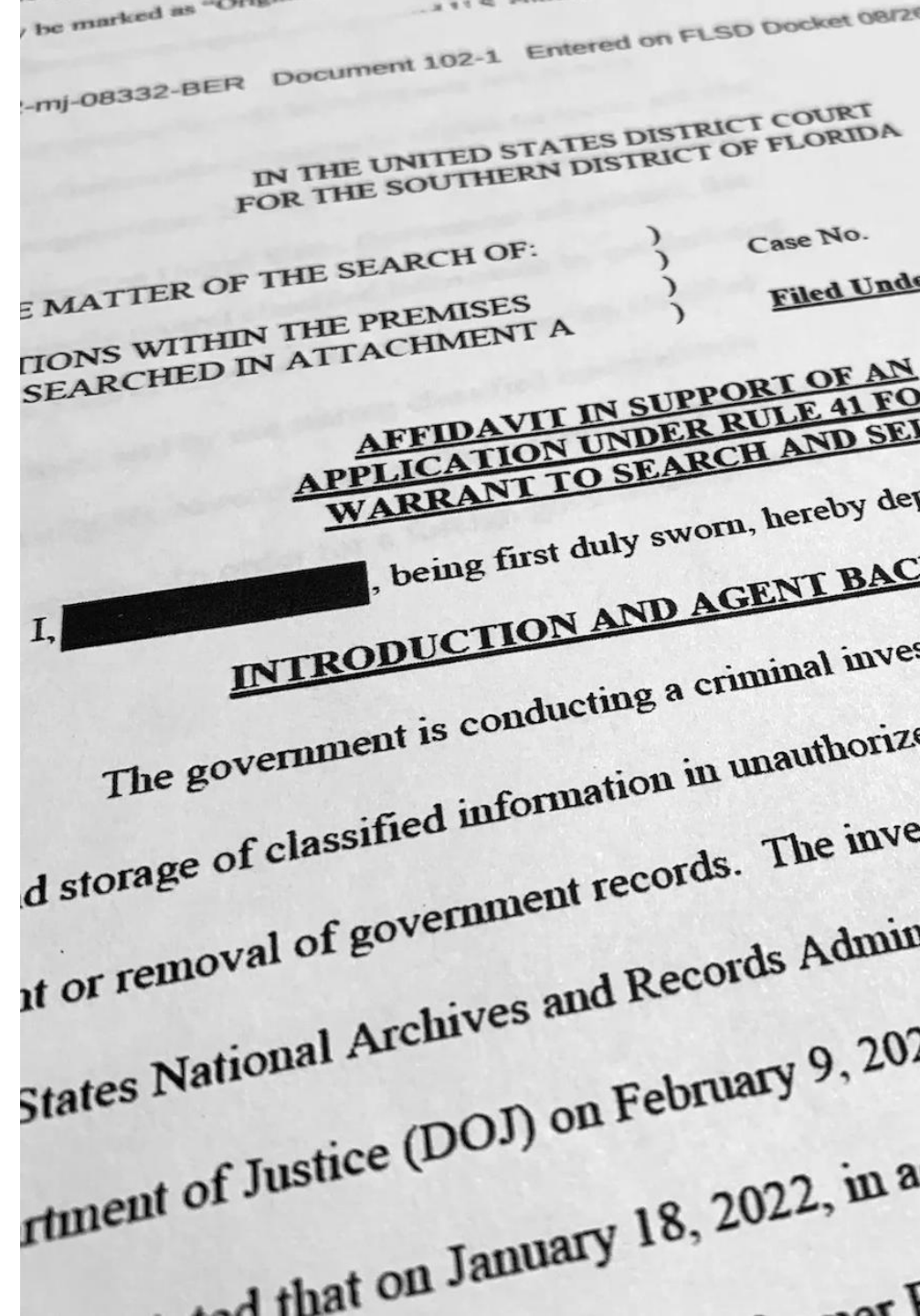
Important Considerations

- Burden of proof.
- Standard on review.
- What is the best means of telling the agency's story of what it did?
- The declaration drafting process.

KEY STEPS: PREPARING DECLARATIONS TO SUPPORT YOUR CASE

Best Defense is thorough, detailed declaration documenting all aspects of PRA Response.

- Communications with Requesters / Clarifications / Basis for Estimates of time to respond
- Why search decisions made – how records usually kept and organized, where reasonable to look for records, who likely custodians
- Search locations & techniques
- Assistance – legal advice, IT help
- Key words used
- Time spent on actions
- Results – what found and not found
- What provided to Requester, explain why anything was withheld



RESOLUTION

NEGOTIATION, MEDIATION AND
SETTLEMENT AGREEMENTS



ANY TIME PRIOR TO THE ENTRY OF A FINAL ORDER THE PARTIES CAN RESOLVE THE CASE

Direct Negotiation	Many cases are resolved through direct discussions.
Mediation	The parties agree to a skilled and knowledgeable intermediary.
CR 68	Offer of Judgment.

Settlement Agreement

Documents the parties mutual understanding and agreement to resolve alleged PRA violations. Key issues:

- Penalty award
- Attorney's fees
- Dismissal of case
- Agency action, if any
- Release of claims
- Non-admission of liability
- Governing law and enforcement
- Conditions – release of additional records



THIRD PARTY LAWSUITS

- BURDEN OF PROOF
- DETERMINE AGENCY'S POSITION ON EXEMPTIONS AND RELEASE
- REQUESTER IS A NECESSARY PARTY
- INJUNCTION STANDARD – RCW 42.56.540
- SPECIAL INJUNCTION STANDARD FOR INCARCERATED REQUESTERS



THANK YOU!

