

Docket No. 10-35832

In the
United States Court of Appeals
for the
Ninth Circuit

Family PAC,

Plaintiff-Appellee,

v.

Rob McKenna, et al.,

Defendants-Appellants.

Appeal from a Decision of the United States District Court for the Western District
of Washington, No. 09-cv-5662 Honorable Ronald B. Leighton

**Appendix to Family PAC's Opposition to Appellant's
Emergency Motion for Stay Under Circuit Rule 27-3**

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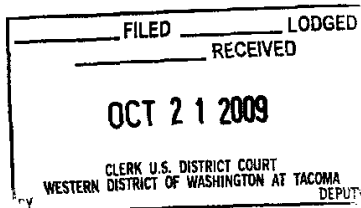
Attorneys for Appellee Family PAC

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09-CV-05662-CMP

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
TACOMA DIVISION**

FAMILY PAC,

Plaintiffs,

vs.

SAM REED, in his official capacity as
Secretary of State of Washington, ROB
MCKENNA, in his official capacity as
Attorney General of Washington, JIM
CLEMENTS, DAVID SEABROOK, JANE
NOLAND, and KEN SCHELLBERG,
members of the Public Disclosure
Commission, in their official capacities, and,
CAROLYN WEIKEL, in her official capacity
as Auditor of Snohomish County, Washington,

Defendants.

No.

C09 5662 RBL

**VERIFIED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

Family PAC complains and alleges as follows:

Introduction

1. This is a civil action for declaratory and injunctive relief arising under the First and
Fourteenth Amendments to the Constitution of the United States.

Verified Complaint

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2. This case concerns the pre-enforcement, facial and as-applied constitutional challenge to Washington's Public Disclosure Law, Wash. Rev. Code ("RCW") § 42.17.010, *et seq.* ("PDL"). Plaintiff seeks declaratory and injunctive relief with respect to portions of the PDL because they violate the First Amendment to the United States Constitution, as incorporated by virtue of the Fourteenth Amendment to the United States Constitution. Consequently, each is unconstitutional on its face and as applied to Plaintiff Family PAC.

3. Plaintiff Family PAC challenges the PDL's threshold for reporting contributions, RCW § 42.17.090(1)(b), both facially and as-applied to it, on the ground that the threshold is not narrowly tailored to serve a compelling government interest in violation of the First Amendment to the United States Constitution.

4. Plaintiff Family PAC also challenges the PDL's \$5,000 campaign contribution limit during the twenty-one days preceding a general election, RCW § 42.17.105(8), both facially and as-applied to it, on the grounds that it is not narrowly tailored to serve a compelling government interest in violation of the First Amendment to the United States Constitution. *See Citizens Against Rent Control v. City of Berkeley*, 454 U.S. 290, 299-300 (1981) ("CARC") (holding that contribution limits are unconstitutional in the context of a referendum election).

5. Given the nature of the rights asserted, the failure to obtain injunctive relief from this Court will result in immediate and irreparable injury to Plaintiff.

Jurisdiction and Venue

6. This case raises questions under the Constitution of the United States and 42 U.S.C. § 1983, and thus this Court has jurisdiction over all claims for relief pursuant to 28 U.S.C. §§ 1331 and 1343(a).

7. This Court also has jurisdiction under the Declaratory Judgment Act. *See* 28 U.S.C. §§ 2201, 2202.

8. The Western District of Washington is the proper venue for this case pursuant to 28 U.S.C. § 1391(b) because Defendant Reed resides in this district and Plaintiff Family PAC has its principal place of business in this district.

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Parties

9. Plaintiff Family PAC is a State Continuing Political Committee organized pursuant to RCW § 42.17.040, that is a “political committee . . . of continuing existence not established in anticipation of any particular election campaign” (RCW § 42.17.020(14) (definition of “continuing political committee”) and has its principal place of business in Snohomish County, Washington. It intends to support traditional family values in Washington State by soliciting and receiving contributions, and by making contributions and expenditures to support or oppose ballot propositions in the 2009 election and beyond. Its initial project is to support referendum 71 on SB 5688 and to encourage voters to reject SB 5688. In the future, it will only support or oppose ballot measures, not candidates.

10. Defendant Sam Reed is the Secretary of State of Washington. In his official capacity, Defendant Reed is responsible for receiving referendum petitions pursuant to RCW § 29A.72.010. The Office of the Secretary of State is also designated as a place where the public may file papers or correspond with the Public Disclosure Commission and receive any form or instruction from the Commission. RCW § 42.17.380.

11. Defendant Rob McKenna is the Attorney General for the State of Washington. In his official capacity, Defendant McKenna is charged with supplying such assistance as the Public Disclosure Commission may require. RCW § 42.17.380. Defendant McKenna is also granted the authority to investigate and bring civil actions on behalf of the state for any violations of the PDL. RCW § 42.17.400.

12. Defendant Jim Clements is the Chair of the Public Disclosure Commission. Defendant Clements is sued in his official capacity and is subject to the jurisdiction of this Court. Defendants David Seabrook, Jane Noland, and Ken Schellberg are commissioners of the Public Disclosure Commission. They are sued in their official capacity. The Public Disclosure Commission is granted the authority to enforce the PDL, RCW § 42.17.360(7).

13. Defendant Carolyn Weikel is the Auditor of Snohomish County, Washington. In her official capacity, Defendant Weikel is charged with receiving copies of reports filed by Plaintiff Family PAC. RCW §§ 42.17.040(1), 42.17.040(2).

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Facts

14. Pursuant to Wash. Const. art. II, § 1(b), the referendum power is reserved by the people of Washington State.

15. The referendum power grants Washington citizens the right to call a referendum on any act, bill, law, or any part thereof passed by the legislature by submitting a petition to that effect to the Secretary of State. Wash. Const. art. II, § 1(b).

16. If a petition submitted to the Secretary of State contains at least four percent of the votes cast for the office of governor at the last gubernatorial election preceding the filing of the referendum petition, the effective date of the act, bill, law, or any part thereof is delayed until the electorate has an opportunity to vote on the referendum. Wash. Const. art. II, §§ 1(b), (d).

17. An act, bill, law, or any part thereof, subject to a referendum, becomes law only if a majority of the votes cast are in favor of the referendum. Wash. Const. art. II, § 1(d).

18. On January 28, 2009, Washington State Senator Ed Murray introduced Senate Bill 5688 ("SB 5688"), a bill designed to expand the rights, responsibilities, and obligations accorded state-registered same-sex and senior domestic partners to be equivalent to those of married spouses. The legislation is commonly referred to simply as the "everything but marriage" domestic partnership bill.

19. On March 10, 2009, after various amendments, the Washington Senate passed Second Substitute Senate Bill 5688.

20. On April 15, 2009, the Washington House of Representatives passed Second Substitute Senate Bill 5688.

21. On or about October 21, 2009, Family PAC organized as a State Continuing Political Committee pursuant to RCW § 42.17.040.

22. Family PAC's general purpose is to support traditional family values in Washington State by soliciting and receiving contributions, and by making contributions and expenditures to support or oppose ballot propositions in the 2009 election and beyond. Its initial project is to support referendum 71 on SB 5688 and to encourage voters to reject SB 5688.

23. Joseph Backholm is the campaign manager of Family PAC.

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1 **24.** On May 18, 2009, Washington Governor Christine Gregoire signed Engrossed Second
2 Substitute Senate Bill 5688.¹

3 **25.** On July 25, 2009, a petition with over 138,500 signatures was submitted to Defendant
4 Reed, exceeding the number of signatures necessary to place a referendum question on the ballot.

5 **26.** SB 5688 will become law only if a majority of Washington residents vote to “approve”
6 the bill at the next general election.

7 **27.** Persons intend – now and in the future – to contribute more than \$5,000 to Family PAC
8 during the twenty-one days preceding the election, and Family PAC intends – now and in the
9 future – to receive contributions in excess of \$5,000 during the twenty-one days preceding the
10 election. Family PAC will not accept such contributions as long as Washington law prohibiting
11 such contributions is not enjoined. RCW § 42.17.105(8).

12 **28.** Potential donors to Family PAC have indicated that they are unwilling to donate if
13 Family PAC is required to report their name and address pursuant to the PDL.

14 **29.** Family PAC intends – now and in the future – to accept contributions in excess of \$25
15 and is required to report the name and address of those contributors. Family PAC will report the
16 names and addresses of contributors as long as Washington law requiring such reporting is not
17 enjoined.

18 **30.** Family PAC intends – now and in the future – to accept contributions in excess of \$100
19 and is required to report the occupation, employer, and employer’s address of those contributors.
20 Family PAC will report the occupation, employer, and employer’s address of contributors as long
21 as Washington law requiring such reporting is not enjoined.

22 **The Washington Public Disclosure Law**

23 **31.** The PDL defines a “political committee” in relevant part as “any person having the
24 expectation of receiving contributions or making expenditures in support of, or opposition to, any
25 candidate or any ballot proposition.” RCW § 42.17.020(39).

26 **32.** “Ballot proposition” is defined in relevant part as “any . . . initiative, recall, or
27

28 ¹ The enacted legislation subject to the referendum petition will be referred to simply as SB 5688.

1 referendum proposition proposed to be submitted to the voters of the state.” RCW §
2 42.17.020(4).

3 **33.** “Person” is defined as “an individual, partnership, joint venture, public or private
4 corporation, association, federal, state, or local governmental entity or agency however
5 constituted, candidate, committee, political committee, political party, executive committee
6 thereof, or any other organization or group of persons, however organized.” RCW §
7 42.17.020(36).

8 **34.** “Contribution” is defined broadly and includes legal and professional services
9 performed on a *pro bono* basis to a political committee. RCW § 42.17.020(15); Wash. Admin.
10 Code 390-17-405(2). *See also* Public Disclosure Commission, 2009 *Campaign Disclosure*
11 *Instructions*, at 24 & 31 (July 2009).

12 **35.** Family PAC and major donors are required to file reports with the Public Disclosure
13 Commission and the local county auditor or elections officer. *See, e.g.*, RCW §§ 42.17.040(1) &
14 42.17.080(1).

15 **36.** The Public Disclosure Commission is required to keep copies of reports for ten years.
16 RCW § 42.17.450. All other recipients of reports (*i.e.* county auditor or elections officer) are
17 required to keep copies for six years. RCW § 42.17.450.

18 **37.** All statements and reports filed in accordance with the PDL are public records of the
19 agency where they are filed and must be made available to the public during normal business
20 hours. RCW § 42.17.440.

21 **38.** Pursuant to RCW § 42.17.367, the Public Disclosure Commission is required to make
22 copies of all statements and reports available on the internet. *See also* [http://www.pdc.wa.gov/](http://www.pdc.wa.gov/QuerySystem/Default.aspx)
23 [QuerySystem/Default.aspx](http://www.pdc.wa.gov/QuerySystem/Default.aspx).

24 **39.** RCW § 42.17.090 provides, in relevant part, that each report required under RCW §
25 42.17.080 shall disclose:

26 the *name and address* of each person who has made one or more contributions during the
27 period, together with the money value and date of such contributions and the aggregate
28 value of all contributions received from each such person during the campaign . . .
PROVIDED FURTHER, That contributions of no more than twenty-five dollars in the
aggregate from any one person during the election campaign may be reported as one lump

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sum so long as the campaign treasurer maintains a separate and private list of the name, address, and amount of each such contributor

RCW § 42.17.090 (emphasis added).

40. Pursuant to Wash. Admin. Code 390-16-034, all reports required under RCW § 42.17.080 shall also disclose the occupation, employer's name, and employer's address of each person who has made one or more contributions in the aggregate amount of more than \$100.

Wash. Admin. Code 390-16-034 (emphasis added).

41. Furthermore, the PDL provides that:

it is a violation of this chapter for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17.090 in the aggregate . . . exceeding five thousand dollars for any other campaign subject to the provisions of this chapter within twenty-one days of a general election.

RCW § 42.17.105(8).

42. Any person who violates a provision of the PDL is subject to civil fines and sanctions. RCW § 42.17.390. The PDL authorizes treble damages, RCW § 42.17.400(5), and provides that the State may be awarded attorney's fees and costs of investigation and trial in a successful action. RCW § 42.17.400(5).

43. Plaintiff has suffered, or will suffer, irreparable harm if the requested relief is not granted.

44. Plaintiff has no adequate remedy at law.

Legal Arguments Common to Plaintiff's Claims

45. "The First Amendment is the pillar of a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open" *Mont. Right to Life v. Eddlemann*, 999 F. Supp. 1380, 1384 (D. Mont. 1998).

46. "In the free society ordained by our Constitution it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign." *Buckley v. Valeo*, 424 U.S. 1, 57 (1976).

47. In *Buckley*, the Supreme Court held that any significant encroachment on First Amendment rights, such as those imposed by compelled disclosure provisions, must survive

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1 exacting scrutiny, which requires the government to craft a narrowly tailored law to serve a
2 compelling government interest. *Buckley*, 424 U.S. at 64.

3 **48.** The Supreme Court has recognized that the principles applied in *Buckley* apply as
4 forcefully to activities surrounding the referenda process. *See Buckley v. Am. Constitutional Law*
5 *Found.*, 525 U.S. 182, 192 (1999) (“*ACLF*”) (“[T]he First Amendment requires us to be vigilant
6 in making those judgments, to guard against undue hindrances to political conversations and the
7 exchange of ideas. We therefore detail why we are satisfied that . . . the restrictions in question
8 significantly inhibit communication with voters about proposed political change, and are not
9 warranted by the state interests (administrative efficiency, fraud detection, informing voters)
10 alleged to justify those restrictions.”) (internal citations omitted); *Citizens Against Rent Control*
11 *v. City of Berkeley*, 454 U.S. 290, 295 (1981) (“*CARC*”) (applying *Buckley*’s contribution limit
12 analysis in the context of ballot measure elections).

13 **49.** The PDL also results in compelled political speech.

14 **50.** The Supreme Court has repeatedly reaffirmed that “compelled disclosure, in itself, can
15 seriously infringe on privacy of association and belief guaranteed by the First Amendment.”
16 *Davis v. FEC*, 554 U.S. ___, ___, 128 S.Ct. 2759, 2774-75 (2008) (quoting *Buckley*, 424 U.S.
17 at 64).

18 **51.** To survive exacting scrutiny, the PDL must be narrowly tailored to serve a compelling
19 government interest. *Buckley*, 424 U.S. at 64).

20 **52.** The burden is on the State to demonstrate that the PDL are narrowly tailored to serve a
21 compelling state interest. *Cal. Pro-Life Council, Inc. v. Randolph*, 507 F.3d 1172, 1178 (9th Cir.
22 2007) (“*CPLC IF*”) (citing *Republican Party of Minnesota v. White*, 536 U.S. 765, 774-75
23 (2002)).

24 **53.** In the context of the First Amendment, the usual deference granted to the legislature
25 does “not foreclose [a court’s] independent judgment of the facts bearing on an issue of
26 constitutional law.” *Turner Broad. Sys. v. FEC*, 512 U.S. 622, 666 (1994) (internal citations
27 omitted). The Court’s role is to ensure that the legislature “has drawn *reasonable inferences*
28 based on *substantial evidence*.” *Id.* (emphasis added).

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1 **54.** The Supreme Court has stated that three governmental interests may justify campaign
 2 disclosure laws if the regulations are narrowly tailored to serve those interests. *Buckley*, 424 U.S.
 3 at 66-68 (identifying an “informational interest,” a “corruption interest,” and an “enforcement
 4 interest.”).

5 **55.** However, *Buckley* involved only candidate elections, and the courts have clarified that
 6 the “corruption” and “enforcement” interests are inapplicable in the context of referenda
 7 elections. *First Nat’l Bank of Boston v. Bellotti*, 435 U.S. 765, 790 (1978) (“The risk of
 8 corruption perceived in cases involving candidate elections simply is not present in a popular
 9 vote on a public issue.”); *Cal. Pro-Life Council, Inc. v. Getman*, 328 F.3d 1088, 1105 n. 23 (9th
 10 Cir. 2003) (“*CPLC I*”) (“The interest in collecting data to detect violations also does not apply
 11 since there is no cap on ballot-measure contributions . . .”).

12 **56.** The Ninth Circuit recently held that compelled disclosure of *de minimis* support of a
 13 referenda is also unconstitutional under the First Amendment. *See Canyon Ferry Road Baptist*
 14 *Church of East Helena, Inc. v. Unsworth*, 556 F.3d 1021, 1033 (9th Cir. 2009).

15 **57.** The Supreme Court has also indicated that limits and thresholds that are not indexed for
 16 inflation “will almost inevitably become too low over time.” *Randall v. Sorrell*, 548 U.S. 230,
 17 261 (2006).

18 **58.** In materially similar situations in the future, Plaintiff intends to do speech materially
 19 similar to all of its planned speech such that Washington law will apply to Plaintiff as it does
 20 now.

21 **59.** In the future, it is likely that referenda regarding traditional family values will recur. It
 22 is likely that issues will arise in the future, and persons will be interested in supporting or
 23 opposing referenda, as they are in 2009, as noted above.

24 **Count I — The Public Disclosure Law’s Requirement that Political**
 25 **Committees Report All Contributors of \$25 or More is**
 26 **Unconstitutional**

27 **60.** Plaintiff incorporates here by reference paragraphs one through fifty-nine (59), *supra*, as
 28 if fully set forth herein.

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1 **61.** The PDL's requirement that political committees report the name and address of all
 2 contributors of more than \$25, and the occupation, employer, and employer's address of
 3 contributors of more than \$100, violates the First Amendment because the disclosure thresholds
 4 are not narrowly tailored to serve a compelling government interest.

5 **62.** WHEREFORE, Plaintiff request the following relief:

6 **a.** Declare RCW § 42.17.090 unconstitutional to the extent that it requires Family PAC
 7 and all other similar persons to report the name and address of contributors of more than
 8 twenty-five dollars;

9 **b.** Declare Wash. Admin. Code 390-16-034 unconstitutional to the extent that it requires a
 10 Family PAC and all other similar persons to report the occupation, employer, and
 11 employer's address of contributions of more than one hundred dollars;

12 **c.** Order Defendants to expunge all records containing the name, address, occupation,
 13 employer, and/or employer's address for any contributor reported pursuant to RCW §
 14 42.17.090 and/or Wash. Admin. Code 390-16-034;

15 **d.** Enjoin Defendants from commencing any civil actions for failing to comply with RCW
 16 § 42.17.090(1)(b) or Wash. Admin. Code 390-16-034;

17 **e.** Grant Plaintiff Family PAC its costs and attorneys fees under 42 U.S.C. § 1988 and any
 18 other applicable authority; and

19 **f.** Any and all other such relief as may be just and equitable.

20 **Count II — The Public Disclosure Law's Prohibition on Aggregate**
 21 **Contributions Exceeding \$5,000 to a Single Political Committee During**
 22 **the Twenty-One Days Preceding an Election is Unconstitutional As**
 23 **Applied to Referenda Elections**

24 **63.** Plaintiffs incorporate here by reference paragraphs one through sixty-two (62), *supra*, as
 25 if fully set forth herein.

26 **64.** Any and all contribution limits on contributions to committees formed to support or
 27 oppose ballot measures submitted to popular vote contravene the First Amendment rights of
 28 association and expression. *Citizens Against Rent Control v. City of Berkeley*, 454 U.S. 290, 296
 (1981) ("CARC").

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1 **65.** The PDL's \$5,000 contribution limit during the twenty-one days preceding a
2 referendum elections violates the First Amendment because it is not narrowly tailored to serve a
3 compelling government interest.

4 **66.** WHEREFORE, Plaintiff request the following relief:

5 **a.** Declare RCW § 42.17.105(8) unconstitutional to the extent that it prohibits Family PAC
6 and all other similar persons from receiving contributions in excess of \$5,000 during the
7 twenty-one days preceding a ballot proposition election;

8 **b.** Enjoin Defendants from enforcing RCW § 42.17.105(8) against Family PAC and all
9 other similar persons;

10 **c.** Grant Plaintiff Family PAC its costs and attorneys fees under 42 U.S.C. § 1988 and any
11 other applicable authority; and

12 **d.** Any and all other such relief as may be just and equitable.
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Verified Complaint


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Verification

I SWEAR (OR AFFIRM) UNDER THE PENALTIES FOR PERJURY UNDER THE LAWS OF THE UNITED STATES THAT THE FOREGOING STATEMENTS CONCERNING FAMILY PAC IN THIS COMPLAINT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND UNDERSTANDING.


Dated this 20th day of October, 2009.


Joseph Backholm

Dated this 20th day of October, 2009.

Respectfully submitted,

James Bopp, Jr. (Ind. Bar No. 2838-84)*
Barry A. Bostrom (Ind. Bar No. 11912-84)*
Randy Elf (N.Y. Bar No. 2863553)*
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**Pro Hac Vice Application Pending*

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Activity in Case 3:09-cv-05662-RBL Family Pac v. Reed et al TRO Hearing

Subject: Activity in Case 3:09-cv-05662-RBL Family Pac v. Reed et al TRO Hearing
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U.S. District Court

United States District Court for the Western District of Washington

Notice of Electronic Filing

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Case Name: Family Pac v. Reed et al
Case Number: [3:09-cv-5662](#)
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Document Number: 35(No document attached)

Docket Text:

MINUTE ENTRY for proceedings held before Judge Ronald B. Leighton- Dep Clerk: Jean Boring; Pla Counsel: Scott Bieniek (Family Pac) pro hac vice; Joseph Backholm (local); Def Counsel: Linda Dalton, Gordon Karg (ATG); Kevin Hamilton(Wash. Fam. & Ann Levinson); Ben Stafford (Wash Fam); Gordon Siveley (Weikel); CR: Julaine Ryen; TRO Hearing held on 10/27/2009. Plaintiff addresses the issue that Joseph Backholm is not admitted and cannot act as local counsel; Counsel advise that the issue regarding local counsel will be correctly promptly; Argument conducted; For the reasons orally stated, on the record, the [2] MOTION for Temporary Restraining Order and for Preliminary Injunction is DENIED. [5] MOTION for Leave to File Excess Pages is GRANTED and [4] MOTION to Consolidate Cases is DENIED. [3] MOTION to Expedite is NOTED on the Court's motion calendar for 11/6/2009. Responses shall be due by 11/3/2009. Hearing concluded. (JAB)

3:09-cv-5662 Notice has been electronically mailed to:

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JMcCluskey@perkinscoie.com, KHamilton@perkinscoie.com, NGellert@perkinscoie.com, RKelly@perkinscoie.com

Activity in Case 3:09-cv-05662-RBL Family Pac v. Reed et al TRO Hearing

Scott F Bieniek sbieniek@bopplaw.com

Sarah E Troupis stroupis@bopplaw.com

Barry Bostrom bbostrom@bopplaw.com

Zachary Kester zkester@bopplaw.com

Randy Elf relf@bopplaw.com

3:09-cv-5662 Notice will not be electronically mailed to:

1 UNITED STATES DISTRICT COURT
 2 WESTERN DISTRICT OF WASHINGTON
 3 AT TACOMA

4 FAMILY PAC,) Docket No. C09-5662RBL
 5)
 6 Plaintiff,) Tacoma, Washington
 7) October 27, 2009
 8 v.)
 9)
 10 SAM REED, in his official)
 11 capacity as Secretary of State)
 12 of Washington, ROB MCKENNA, in)
 13 his official capacity as)
 14 Attorney General of Washington,)
 15 JIM CLEMENTS, DAVID SEABROOK,)
 16 JANE NOLAND, and KEN SCHELLBERG,)
 17 members of the Public Disclosure)
 18 Commission, in their official)
 19 capacities, and CAROLYN WEIKEL,)
 20 in her official capacity as)
 21 Auditor of Snohomish County,)
 22 Washington,)
 23)
 24 Defendants,)
 25)

16 TRANSCRIPT OF COURT'S ORAL RULING
 17 BEFORE THE HONORABLE RONALD B. LEIGHTON
 18 UNITED STATES DISTRICT COURT JUDGE.

19 APPEARANCES:

20 For the Plaintiff:

21 SCOTT F. BIENIEK
 22 Bopp, Coleson & Bostrom
 23 The National Building
 24 1 South Sixth Street
 25 Terre Haute, Indiana 47807-3510

JOSEPH BACKHOLM
 16108 Ash Way, Suite 111A
 Lynnwood, Washington 98087

1 For State Defendants: LINDA A. DALTON
2 Senior Assistant Attorney General
3 1125 Washington Street Southeast
4 P.O. Box 40100
5 Olympia, Washington 98504-0100
6
7 For Defendant Weikel: GORDON W. SIVLEY
8 Snohomish County Deputy
9 Prosecuting Attorney
10 3000 Rockefeller Avenue
11 M/S 504
12 Everett, Washington 98201
13
14 For Intervenor Defendants: KEVIN J. HAMILTON
15 Perkins Coie
16 1201 Third Avenue, Suite 4800
17 Seattle, Washington 98101-3099
18
19 Court Reporter: Julaine V. Ryen
20 Post Office Box 885
21 Tacoma, Washington 98401-0885
22 (253) 882-3832
23
24
25

Proceedings recorded by mechanical stenography, transcript
produced by Reporter on computer.

-- -- -- -- --

1 * * * * *

2 THE COURT: Let me thank counsel for excellent
3 briefing and remarks under trying circumstances given the
4 press of time. A decision is important at this point given
5 this temporal relationship between this motion and the
6 election next Tuesday.

7 I do not believe that the criteria for imposition of a
8 temporary restraining order or a preliminary injunction have
9 been met on this record, and the motion will be denied. I do
10 not believe that there is a real emergency that -- I certainly
11 sympathize with Mr. Bieniek in terms of when he was authorized
12 to take action on behalf of a client who wanted to engage in
13 the electoral process in the State of Washington, but the
14 reality is, is that I do not believe that the emergency -- I
15 mean, in this case the emergency and the constraints imposed
16 upon the plaintiff are self-inflicted.

17 That is not dispositive of the issue, certainly, but I
18 will say that on the record that is before this Court, there
19 is not a likelihood of success on the merits that has been
20 demonstrated. You've probably gathered from my questions, I
21 think the state has a real and vital interest in providing
22 information to voters about where the money in elections come
23 from.

24 As I indicated earlier, I think this case is a far cry
25 from the *John Doe* case, and for the reasons that have been

1 articulated by the state and by the intervenors, the issues
2 are different, and for that reason the outcome will be
3 different here.

4 There is no evidence on this record of irreparable harm.
5 Evidence of a contributor who can't give \$5,000 but would have
6 given \$5,000 before, that is, I will say, the one aspect of
7 this lawsuit that I think may have some real merit. I'm not
8 sure that the prevention of a sudden influx of money is the
9 substantial and important government interest that would
10 sustain the burden on freedom of speech and participation in
11 the election process.

12 Having said that, the record is simply inadequate to make
13 that determination at this time. I do not want to
14 overemphasize my concern because this has hit all counsel
15 suddenly, and there may be very real reasons having to do with
16 the state's informational interest in informing the public
17 that I haven't been able to seize upon as I have cogitated
18 about the subject. But it seems to be more related to
19 preventing expenditures than providing information.

20 Having said that, based on the record before this Court, I
21 am not prepared to make a decision that in fact that
22 limitation is contrary to the First Amendment freedom of
23 speech.

24 With regard to the low threshold of \$25 and \$100, I'm far
25 more comfortable in saying that I am not able to find that

1 there's a likelihood of success on the merits. I think that
2 such limits have been widely accepted by trial courts, courts
3 of appeal, and the Supreme Court, and I think that there are
4 obvious and ample reasons for the state to want the relatively
5 low threshold as part of its informational interests in
6 informing the public of where the money is coming from for a
7 candidate or, in this case, a referendum issue.

8 Ultimately, and perhaps most significantly, I do not
9 believe that it is in the public interest for a court a week
10 before an election to intervene and change the rules of the
11 game at the last minute. I recognize that the disclosure laws
12 impose some burden of self confidence and conviction in order
13 to participate as a contributor in an election of any kind,
14 and I recognize that freedom of speech is not simply for the
15 strong and the fleet of foot. It is also for the timid and
16 the meek.

17 But when it comes to campaign finance, there are competing
18 First Amendment rights at stake, and it seems to me that the
19 State of Washington at this point has achieved a balance which
20 meets constitutional standards, and perhaps more importantly,
21 is met with widespread public acceptance. I am loathed to
22 upset that statutory structure based on the meager record that
23 I have before me.

24 So for those reasons, the motion for temporary restraining
25 order and the motion for preliminary injunction are denied.

1 Any further questions or comments?

2 Mr. Bieniek.

3 MR. BIENIEK: Your Honor, I think we have a pending
4 motion to expedite in light of the Court's denial of the PI
5 and TR0. I would respectfully request that the case be
6 expedited so that we can move towards summary judgment as
7 quickly as possible at this point.

8 THE COURT: Ms. Dalton.

9 MS. DALTON: Yes, Your Honor. I have actually
10 contacted the firm yesterday and specifically requested that
11 once those matters were noted that we have an opportunity to
12 respond to the other motions, including the motion to
13 expedite. We would, of course, be resisting that.

14 Given the fact that the Court has now denied both the
15 preliminary injunction and the restraining order, there's no
16 need that this case would not proceed under the ordinary
17 course and deliberately before this Court, and so we would
18 like an opportunity to at least be able to respond in writing
19 to that.

20 THE COURT: How much time do you need?

21 MS. DALTON: I would probably have it done by the end
22 of the week.

23 THE COURT: I'm going to note the motion for the
24 30th. I don't anticipate oral argument being necessary. Get
25 your papers in by the end of the week, and I will give Mr.

1 Bieniek until the end of the business day on the 27th to get
2 your response, your reply.

3 MS. DALTON: Today is the 27th.

4 MR. BIENIEK: I'm sorry, today is the 27th.

5 THE COURT: I'm sorry, I'm a week off.

6 MR. BIENIEK: Do you want it noted for the 6th?

7 THE COURT: I want it noted for the 6th, and get your
8 materials in on the 3rd.

9 MS. DALTON: We will file ours on the 30th; theirs on
10 the 3rd. Thank you, Your Honor.

11 MR. BIENIEK: Thank you, Your Honor.

12 THE COURT: Anything further?

13 MR. BIENIEK: No. We will address the merits of that
14 in our motion to expedite. Obviously, we would like to avoid
15 the brevity of the shortened schedule of this before the
16 Court, and would hope that the motion to expedite would
17 resolve this issue before the next election and we would not
18 be back in here seven days before the election.

19 THE COURT: I understand. Thank you, Mr. Bieniek.

20 (Above hearing concluded at 11:10 a.m.)

21
22 C E R T I F I C A T E

23 I certify that the foregoing is a correct transcript from
the record of proceedings in the above-entitled matter.

24 /s/ Julaine V. Ryen
25 JULAINE V. RYEN

October 27, 2009
Date

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
TACOMA DIVISION**

Family PAC,

Plaintiff,

vs.

McKenna, et al,

Defendants.

No. 09-CV-5662-RBL

**DECLARATION OF
MONA PASSIGNANO**

The Honorable Ronald B. Leighton

I, Mona Passignano, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am a resident of the state of Colorado over 18 years of age, and my statements herein are based on personal knowledge.

2. I am the Lead Analyst for State Issues at Focus on the Family/Focus on the Family Action. Focus on the Family is a global Christian ministry dedicated to helping families thrive. We provide help and resources for couples to build healthy marriages that reflect God's design, and for parents to raise their children according to morals and values grounded in biblical principles. Focus on the Family Action ("Focus Action") is active in the promotion of social welfare by addressing the Christian community and the Christian's responsibility in the public policy arena, both locally and nationally. Since the events described in this declaration, Focus

**Declaration of
Mona Passignano
(No. 09-CV-5662-RBL)**

1

**BOPP, COLESON & BOSTROM
1 South Sixth Street
Terre Haute, Indiana 47807-3510
(812) 232-2434**

1 Action has changed its name to CitizenLink, but the events described in this declaration took
2 place before the name change.

3 3. In 1988 Dr. James C. Dobson and Focus on the Family, along with business, professional
4 and community leaders from across the nation helped form state-based organizations called
5 *Family Policy Councils* (FPCs) to invest in the future of America's families. These Councils are
6 independent entities with no corporate or financial relationship to each other, or to Focus on the
7 Family. Their purpose, however, is uniform: to serve as a voice for the traditional, Judeo-
8 Christian family. Focus on the Family/Focus Action is associated with 37 state-based family
9 policy councils including the one in Washington State. Because of the working relationship, we
10 routinely provide legislation and ballot issue resources to these state councils upon request.

11 4. Focus Action first became involved with Referendum 71 while Senate Bill 5688
12 (eventually passed as Second Substitute Senate Bill 5688), the bill that became the subject of
13 Referendum 71, was being debated in the Washington legislature.

14 5. Although Focus Action was involved with the legislative actions that preceded
15 Referendum 71, Focus Action was not involved in the petition process to place Referendum 71
16 on the November 2009 ballot.

17 6. In September 2009, Focus Action began its efforts regarding Referendum 71 in earnest.
18 Shortly after this, we discussed the possibility of a donation regarding the Referendum 71
19 campaign with Joseph Backholm, who was the director of the FPC based in Washington State.

20 7. Our original intention was to make a donation of \$60,000 to a group involved in the
21 Referendum 71 campaign. Ultimately, we decided that we would like to donate the money to a
22 new organization, Family PAC.

23 8. Upon making this decision, we informed one of our attorneys that we were planning on
24 giving Family PAC \$60,000. Specifically, this money would be spent on radio ads that would
25 begin to air on October 13, 2009.

26 9. Our attorney informed us that we could not write this check to Family PAC at this date in
27
28

Declaration of
Mona Passignano
(No. 09-CV-5662-RBL)

2

BOPP, COLESON & BOSTROM
1 South Sixth Street
Terre Haute, Indiana 47807-3510
(812) 232-2434

1 the referendum process. Specifically, RCW § 42.17.105(8) prevented us from making a donation
2 of over \$5,000 to Family PAC during the 21 days preceding the November 2009 general
3 election. Thus, we could not give this money to Family PAC on October 12, 2009 or later, as we
4 desired to do.

5 10. Because of the possibility that the State of Washington could take legal action based
6 upon violations of RCW § 42.17.105(8), Focus Action did not initiate communications with
7 Family PAC after the 21 day cut off for donations.


8 11. On October 13, 2009, Family PAC asked Focus Action to contribute \$20,000 to a phone
9 campaign. Because of RCW § 42.17.105(8), we were unable to make this contribution.

10 12. Although we were eventually able to participate in the Referendum 71 campaign through
11 other methods, RCW § 42.17.105(8) prevented Focus Action from participating in Referendum
12 71 in the manner we had desired.

13 13. If RCW § 42.17.105(8) had not been in place, Focus Action would have made a
14 donation of \$60,000 to Family PAC in the twenty-one days preceding the November 2009
15 election, in addition to the \$20,000 that Family PAC later asked for.

16 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE
17 AND CORRECT.

18
19
20 Executed on: May 18, 2010.

21
22 
23 Signed: Mona Passignano
24
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28

Declaration of
Mona Passignano
(No. 09-CV-5662-RBL)

3

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1 South Sixth Street
Terre Haute, Indiana 47807-3510
(812) 232-2434

CERTIFICATE OF SERVICE

I, Sarah E. Troupis, am over the age of 18 years and not a party to the above-captioned action. My business address is 1 South Sixth Street; Terre Haute, Indiana 47807-3510.

On May 19, 2010, I electronically filed the foregoing document described as Declaration of Mona Passignano with the Clerk of Court using the CM/ECF system which will send notification of such filing to:

Linda A. Dalton
lindad@atg.wa.gov
*Counsel for Defendant Rob McKenna
and Defendant Members of the Public Disclosure Commission*

Nancy J. Krier
nkrier@pdc.wa.gov
Counsel for Defendant Members of the Public Disclosure Commission

I declare under the penalty of perjury under the laws of the State of Indiana that the above is true and correct. Executed this 19th day of May, 2010.

s/ Sarah E. Troupis
Sarah E. Troupis
Counsel for All Plaintiffs

**Declaration of
Mona Passignano
(No. 09-CV-5662-RBL)**

4

**BOPP, COLESON & BOSTROM
1 South Sixth Street
Terre Haute, Indiana 47807-3510
(812) 232-2434**

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
TACOMA DIVISION

Family PAC,

Plaintiff,

vs.

Rob McKenna, in his official capacity as
Attorney General of Washington, and **Jim
Clements, David Seabrook, Jane Noland,
Jennifer Joly, and Barry Sehlin**, members of
the Public Disclosure Commission, in their
official capacities,

Defendants.

No. 3:09-cv-05662-RBL

**Declaration of Scott F. Bieniek in Support
of Plaintiff's Motion for Summary
Judgment**

The Honorable Ronald B. Leighton

Decl. of Scott F. Bieniek in Supp. of Pl.'s
Mot. for Summ. J.
(No. 3:09-cv-05662-RBL)

BOPP, COLESON & BOSTROM
1 South Sixth Street
Terre Haute, Indiana 47807-3510
(812) 232-2434

1 I, Scott F. Bieniek, make the following declaration pursuant to 28 U.S.C. § 1746:

2 1. I am an attorney at law licensed to practice in the State of Illinois.

3 2. I am an attorney at the law office of Bopp, Coleson & Bostrom in Vigo County, Indiana.

4 3. I have personal knowledge of the facts set forth in this declaration, and if called as a
5 witness, I can and would testify competently thereto.

6 4. The documents attached hereto as Exhibits 1–7 are true and correct copies of documents
7 produced by Defendants in response to Plaintiff's Request for Production of Documents.

8 5. For the convenience of the Court, the documents are organized into exhibits that relate
9 to specific arguments Plaintiff Family PAC's motion for summary judgment.

10 6. Pursuant to Local Civil Rule 10(e)(10), the exhibits are marked to designate evidence
11 referenced in Plaintiff Family PAC's motion for summary judgment.

12 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE
13 AND CORRECT.

14
15 Executed this 19th day of May, 2010.

16 

17 Scott F. Bieniek
18 Counsel for Plaintiff Family PAC

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Decl. of Scott F. Bieniek in Supp. of Pl.'s
Mot. for Summ. J.
(No. 3:09-cv-05662-RBL)

BOPP, COLESON & BOSTROM
1 South Sixth Street
Terre Haute, Indiana 47807-3510
(812) 232-2434

CERTIFICATE OF SERVICE

I, Sarah E. Troupis, am over the age of 18 years and not a party to the above-captioned action. My business address is 1 South Sixth Street; Terre Haute, Indiana 47807-3510.

On May 19, 2010, I electronically filed the foregoing document described as Declaration of Scott F. Bieniek in Support of Plaintiff's Motion for Summary Judgment with the Clerk of Court using the CM/ECF system which will send notification of such filing to:

Linda A. Dalton
lindad@atg.wa.gov
*Counsel for Defendant Rob McKenna
and Defendant Members of the Public Disclosure Commission*

Nancy J. Krier
nkrier@pdc.wa.gov
Counsel for Defendant Members of the Public Disclosure Commission

I declare under the penalty of perjury under the laws of the State of Indiana that the above is true and correct. Executed this 19th day of May, 2010.

/s/ Sarah E. Troupis
Sarah E. Troupis
Counsel for Plaintiff Family PAC

Decl. of Scott F. Bieniek in Supp. of Pl.'s
Mot. for Summ. J.
(No. 3:09-cv-05662-RBL)

BOPP, COLESON & BOSTROM
1 South Sixth Street
Terre Haute, Indiana 47807-3510
(812) 232-2434

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Exhibit 2

Exhibit 2
(No. 3:09-cv-05662-RBL)

BOPP, COLESON & BOSTROM
1 South Sixth Street
Terre Haute, Indiana 47807-3510
(812) 232-2434



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 206, PO Box 40908 * Olympia, Washington 98504-0908 * (360) 753-1111 * Fax (360) 753-1112
Toll Free 1-877-601-2828 * E-mail: pdcc@pdc.wa.gov * Website: www.pdc.wa.gov

December 11, 2008

JEREMY DEUTSCH, EXECUTIVE DIRECTOR
WA STATE REPUBLICAN PARTY
2840 NORTHUP WAY, SUITE 140
BELLEVUE WA 98004

Subject: Complaint Against Evergreen Progress

Dear Mr. Deutsch:

The Public Disclosure Commission (PDC) has reviewed the complaint received from you via fax and e-mail on October 20, 2008 and via U.S. mail on October 23, 2008, alleging that Evergreen Progress, a political action committee, violated RCW 42.17.105(8) by accepting a contribution of more than \$5,000 during the 21 days before the general election. The contribution in question, a \$250,000 donation from SEIU PEA International, appeared on an LMC (last-minute contribution) report that was received by the PDC on October 17, 2008.

PDC staff spoke with Evergreen Progress' treasurer, Jason Bennett, on October 19, 2008. Mr. Bennett explained that, on October 13, they received a written pledge for \$250,000 from SEIU. The check arrived within 21 days of the general election (October 15), but the pledge was received prior to the start of the 21-day period. Mr. Bennett stated that he submitted an LMC report out of an abundance of caution while he checked with the PDC about whether the contribution could be accepted. When contacted, PDC staff informed Mr. Bennett that the contribution was received within 21 days of the election and could not be accepted. Evergreen Progress then returned the contribution before it was ever deposited, and filed an amended LMC report on October 21, showing a contribution of \$0.00 on October 15. The PDC will not be conducting a formal investigation of this matter, as RCW 42.17.020(15)(b)(iii) states that donations returned within five business days of receipt are not considered contributions.

If you have any questions, you may contact Phil Stutzman at (360) 664-8853, or by e-mail at pstutzman@pdc.wa.gov.

Sincerely,

A handwritten signature in black ink that reads "Doug Ellis".

Doug Ellis
Assistant Director

c: Evergreen Progress



Def Resp to 1st RFP & ROGs
004094

Exhibit 2, Page 2



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 206, PO Box 40908 * Olympia, Washington 98504-0908 * (360) 753-1111 * Fax (360) 753-1112
Toll Free 1-877-601-2828 * E-mail: pdcc@pdcc.wa.gov * Website: www.pdca.wa.gov

December 12, 2008

BRENT LUDEMAN
SENATE REPUBLICAN CAMPAIGN COMMITTEE
PO BOX 11025
OLYMPIA, WA 98508

Subject: Complaint Filed Against The Roosevelt Fund

Dear Mr. Ludeman:

The Public Disclosure Commission (PDC) received a complaint from you on October 22, 2008, alleging that The Roosevelt Fund accepted a \$30,000 over-limit contribution from the Kalispell Tribe of Indians on October 15, 2008, an alleged violation of RCW 42.17.105(8).

When contacted by PDC staff, Jason Bennett, treasurer for The Roosevelt Fund, noted that the contribution had been refunded on October 20, 2008. He filed an amended Last Minute Contribution (LMC) report on October 23, 2008, amending the October 17, 2008 LMC report, to show zero dollars for the contribution amount. RCW 42.17.020 (15)(b)(iii) states a contribution does not include a contribution that is returned to the contributor within five business days of the date on which it is received by the political committee. Therefore, the PDC will not be conducting a formal investigation of this matter.

If you have any questions, please feel free to contact Phil Stutzman at (360) 664-8853, or by e-mail at pstutzman@pdcc.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Ellis".

Doug Ellis
Assistant Director

c: The Roosevelt Fund



Def Resp to 1st RFP & ROGs
004127

Exhibit 2, Page 3



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 206, PO Box 40908 * Olympia, Washington 98504-0908 * (360) 753-1111 * Fax (360) 753-1112
Toll Free 1-877-601-2828 * E-mail: pdcc@pdcc.wa.gov * Website: www.pdca.wa.gov

December 12, 2008

DEL BAUSCH, CHAIR
THE ROOSEVELT FUND
PO BOX 45201
SEATTLE WA 98145-0201

Subject: Complaint filed by Brent Ludeman

Dear Mr. Bausch:

Enclosed is a copy of a letter to Brent Ludeman regarding a complaint he filed with the Public Disclosure Commission (PDC) on October 22, 2008 alleging that The Roosevelt Fund accepted a \$30,000 over-limit contribution from the Kalispell Tribe of Indians on October 15, 2008, an alleged violation of RCW 42.17.105(8). As noted in the enclosed letter, a formal investigation will not be conducted. A copy of the complaint is enclosed.

If you have any questions, you may contact Phil Stutzman, Director of Compliance, at (360) 664-8853, or by email at pstutzman@pdcc.wa.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Doug Ellis".

Doug Ellis
Assistant Director

Enclosures



Def Resp to 1st RFP & ROGs
004128

Exhibit 2, Page 4

Phil Stutzman

From: Brent Ludeman [brent.ludeman@gmail.com]
Sent: Wednesday, October 22, 2008 5:36 PM
To: Phil Stutzman
Subject: Roosevelt Fund Complaint
Attachments: Kalispel 30k.pdf

Mr. Stutzman:

I have another complaint. The Roosevelt Fund received \$30,000 on 10/15/2008 from the Kalispel Indian Tribes, falling within the 21-day \$5,000 limit. Their LMC form is attached. Again, given the closeness of the election and the risk that these funds will be spent in a manner that may affect the election results, we request that you take immediate action to have the illegal contributions returned, and proceed with an investigation and penalize The Roosevelt Fund.

Regards,
Brent Ludeman

--
Brent Ludeman
Executive Director
Senate Republican Campaign Committee
Cell: 206.790.6255

10/23/2008

Def Resp to 1st RFP & ROGs
004129

Exhibit 2, Page 5

OCT-17-2008 18:01 From:ARGO

2063230738

To:13607531112

Page:10/10



**LAST MINUTE CONTRIBUTION
OF \$1,000 OR MORE**
FAX: (360) 753-1112
Email: pdc@pdc.wa.gov

RECEIVED

OCT 17 2008

Public Disclosure
Commission

The Roosevelt Fund

Name of Reporting Entity

PO Box 45201

Address

Seattle

City

WA

State

98145-0201

ZIP+4

Reporting Entity (check one):

☒ Received a contribution of\$30,000.00
(Amount)

on

10/15/2008
(Date)☐ Made a contribution of

(Amount)

on

(Date)

Contribution was received from/made to the following:

Kalispel Tribe of Indians

Name

PO Box 39

Address

Usk

City

WA

State

99180-0039

ZIP+4

If earmarked contribution, give name of conduit:

If the recipient of the contribution is a candidate, provide the following information:

Office	District	Position	Party
--------	----------	----------	-------

Name of person sending this notice:

Jason Bennett

Daytime Telephone Number:

206-325-5013

Powered by CompleteCampaigns.com 888-217-9600

Def Resp to 1st RFP & ROGs
004130

Exhibit 2, Page 6

OCT-23-2008 15:01 From:ARGO

2063230738

To:13607531112

Page:1/2



RECEIVED

OCT 23 2008

Public Disclosure
Commission

October 23, 2008

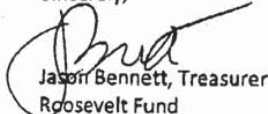
Public Disclosure Commission
PO Box 40908
Olympia, WA 98504

Dear PDC:

Thank you for the conversation with Kurt Young today regarding a \$30,000 check we received on 10/15/08 from Kalispel Tribe for the Roosevelt Fund. As we discussed relating to the Evergreen Progress contribution on the same day, we received a similar pledge on 10/13 indicating a check was in transit for the Roosevelt Fund. I wanted to submit an "LMC" (Last Minute contribution) form while we consulted your office. In an abundance of caution, we filed the LMC. We refunded the contribution and, per your recommendation, are amending our earlier LMC form to reflect \$0.00 received from Kalispel Tribe. Pursuant to RCW 42.17.020 15(b)(iii), if a contribution is returned within 5 business days it is not considered a contribution. This contribution falls within that 5 business day allowance.

Thank you again for your guidance. If you have any additional questions or concerns, please do not hesitate to contact me directly at the office: 206-325-5013.

Sincerely,


Jason Bennett, Treasurer
Roosevelt Fund

P.O. Box 9100
Seattle, WA 98109
206.579.0644 p
www.argostrategies.com

Def Resp to 1st RFP & ROGs
004131

Exhibit 2, Page 7

OCT-23-2008 15:01 From:ARGO

2063230738

To:13607531112

Page:2/2

COPY AMENDED

RECEIVED

OCT 23 2008

Public Disclosure
Commission

PUBLIC DISCLOSURE COMMISSION
 711 CAPITOL WAY RM 208
 PO BOX 40808
 OLYMPIA WA 98504-0808
 (360) 783-1111
 TOLL FREE 1-877-801-2828

**LAST MINUTE CONTRIBUTION
 OF \$1,000 OR MORE**
 FAX: (360) 753-1112
 Email: pdc@pdc.wa.gov

Name of Reporting Entity
 Roosevelt Fund

Address
 PO Box 9100

City	State	ZIP+4
Seattle	WA	98109

Reporting Entity (check one):

☒ Received a contribution of \$0.00 on 10/15/2008
 (Amount) (Date)

☐ Made a contribution of _____ on _____
 (Amount) (Date)

Contribution was received from/made to the following:

Name
 Kalispel Tribe

Address
 PO Box 39

City	State	ZIP+4
Ulk	WA	99180

If earmarked contribution, give name of conduit: _____

If the recipient of the contribution is a candidate, provide the following information:

Office	District	Position	Party
Name of person sending this notice: Jason Bennett			
Daytime Telephone Number: 206-325-5013			

AMENDED

Def Resp to 1st RFP & ROGs
 004132

Exhibit 2, Page 8

Kurt Young

From: Jason Bennett [jason@argostrategies.com]
Sent: Thursday, October 23, 2008 2:44 PM
To: Kurt Young
Subject: kalispel/roosevelt

Is the exact same issue. My staff kristina was waiting to hear what the PDC said regarding pledges. We hadn't synced up on it because of the BIAW drama. She returned the donation back on 10/20 and I will amend the LMC like we did with Evergreen.

By the way, I don't see that memo and amended LMC on the site and I faxed it down on Tues. Did you get it?

Thanks!

JASON BENNETT | ARGO STRATEGIES

PO Box 9100 | Seattle, WA 98109

206.325.5013 (office) | 206.579.0644 (cell) | 206.323.0738 (fax)

www.argostrategies.com | jason@argostrategies.com

10/23/2008

Def Resp to 1st RFP & ROGs
004133

Exhibit 2, Page 9

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Exhibit 4

Exhibit 4
(No. 3:09-cv-05662-RBL)

BOPP, COLESON & BOSTROM
1 South Sixth Street
Terre Haute, Indiana 47807-3510
(812) 232-2434

**RE: Whether an international union may
make an in-kind contribution valued at
more than \$5,000 to a statewide ballot
measure committee, under RCW
42.17.105(8)**

Letter to: James D. Oswald, October 1998

Staff Advisory Letter

Def Resp to 1st RFP
000599

Exhibit 4, Page 2



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 403, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112

October 5, 1998

James D. Oswald
Song Oswald & Mondress
720 3rd Avenue, Ste 1500
Seattle, WA 98104

Dear Mr. Oswald:

You have asked whether an international union may make an in-kind contribution valued at more than \$5,000 to a statewide ballot measure committee. I am writing to confirm that in my opinion such a contribution would be permissible under RCW 42.17.105(8) as long as the contribution is made and received more than 21 days prior to the November 3, 1998, general election. That is, as long as the union

- 1) obligates itself, in writing, to providing a sum certain in-kind contribution to the committee,
- 2) the committee receives written confirmation of this obligation from the union on or before October 12, 1998, and
- 3) the service being provided is made available to the committee starting on the date that the written confirmation is received, or at least no later than October 12, 1998.

As you noted during our conversation, one of the purposes of RCW 42.17.105(8) is to require that large contributions be made before the final weeks of the campaign so that information concerning these contributions may be disseminated to the public well before election day.

Nevertheless, in order not to violate WAC 390-16-245, it is necessary to distinguish this in-kind contribution of personal services from a pledge. A pledge of over \$5,000 may not be made or redeemed during the 21 days before the primary election.

There is no statute or rule that defines the word "pledge." However, according to one dictionary definition, a pledge is a formal promise to do or not do something. In this case, although the service will be rendered over the course of several weeks, the obligation to provide a guaranteed dollar value of staff time will be made and received on a specific date. I believe this degree of obligation and commitment is what distinguishes this in-kind contribution from a promise of a future contribution. By their nature, many types of in-kind contributions are utilized over time (e.g., office space,

*"The public's right to know of the financing of political campaigns and lobbying
and the financial affairs of elected officials and candidates far outweighs
any right that these matters remain secret and private."*

RCW 42.17.010 (10)



Def Resp to 1st RFP
000600

Exhibit 4, Page 3

James D. Oswald
October 5, 1998
Page 2

office equipment, media time buys, etc.), but that does not mean that they have not been received, according to WAC 390-05-215, for reporting and limit purposes prior to being fully utilized.

You stated during our telephone conversation that the union is not a lobbyist employer. Therefore, this in-kind contribution is reportable by the union on a C-7 report if the union's aggregate contributions exceed \$11,500. Please see the enclosed instruction sheet for more information.

In addition, the recipient political committee must report receipt of the in-kind contribution as part of its 21 day pre-general C-4 report, if it receives the contribution by October 6, 1998, or on its 7 day pre-general report, if it receives the contribution between October 7 and October 12, 1998.

This response does not constitute formal advice of the Public Disclosure Commission. The Commission is next scheduled to meet on October 27, 1998, and a copy of this correspondence will be furnished to the members prior to that meeting. If the Commission disagrees with any of the statements contained in this letter or wishes to provide you with further clarification, I will contact you by the end of the month.

Sincerely,



Vicki L. Rippie, Assistant Director
Public Information and Policy Development

Enclosure: C-7 report

Def Resp to 1st RFP
000601

Exhibit 4, Page 4

Lori Anderson

From: Lori Anderson
Sent: Monday, October 26, 2009 3:37 PM
To: 'Janet Tu'
Subject: RE: I-276

All candidates except those running for statewide office. Statewide candidates have a limit of \$50,000. Since the \$50,000/\$5,000 limit was put in place for statewide/all other candidates respectively,* contribution limits have been imposed that have restricted some candidates even more. All political committees, including ballot measure committees, are subject to the \$5,000 limitation.

In 1992, Initiative 134 imposed more restrictive limits on statewide and legislative candidates. The legislature has since extended those limits to judicial candidates and county office and port commissioner candidates where there are more than 200,000 registered voters in the county or port district. A few cities have imposed and are enforcing their own limits.

*A bona fide party state committee is not subject to this limitation.

Lori Anderson
Staff - WA St Public Disclosure Commission
(360) 664-2737 - phone
1-877-601-2828 toll free in WA State
(360) 753-1112 - fax

From: Janet Tu [mailto:jtu@seattletimes.com]
Sent: Monday, October 26, 2009 3:31 PM
To: Lori Anderson
Subject: RE: I-276

Thank you. And the \$5,000 limit applies both to candidates' campaigns and ballot measures, correct?

Janet Tu | Staff Reporter
The Seattle Times
P.O. Box 70, Seattle, WA 98111
tel: 206-464-2272 | mobile: 206-423-5903
jtu@seattletimes.com
www.seattletimes.com

From: Lori Anderson [mailto:landerson@pdc.wa.gov]
Sent: Monday, October 26, 2009 3:18 PM
To: Janet Tu
Subject: RE: I-276

Staff recollection is that the threshold changed from \$5 to \$15 and then \$25, but no one knows the dates. We would need to do a legislative history search in order to figure out the dates and that would likely take a day or so.

Def Resp to 1st RFP & ROGs
003652

Exhibit 4, Page 5

I suspect the \$5,000 limit was to level the playing field in the last three weeks before the election.

Lori Anderson
Staff - WA St Public Disclosure Commission
(360) 664-2737 - phone
1-877-601-2828 toll free in WA State
(360) 753-1112 - fax

From: Janet Tu [mailto:jtu@seattletimes.com]
Sent: Monday, October 26, 2009 2:53 PM
To: Lori Anderson
Subject: RE: I-276

Thanks, Lori.

Do you happen to know why (and when) the reporting threshold was changed from \$5 to \$25?

Are there any specific explanations on the \$5,000 limit during the last 21 days of the election?

Thanks,
Janet

Janet Tu | Staff Reporter
The Seattle Times
P.O. Box 70, Seattle, WA 98111
tel: 206-464-2272 | mobile: 206-423-5903
jtu@seattletimes.com
www.seattletimes.com

From: Lori Anderson [mailto:landerson@pdc.wa.gov]
Sent: Monday, October 26, 2009 2:23 PM
To: Janet Tu
Subject: I-276

The original threshold for not reporting the contributor's name & address was \$5. (Section 6) Section 1 contains all of the explanatory statements.

Lori Anderson
Staff - WA St Public Disclosure Commission
(360) 664-2737 - phone
1-877-601-2828 toll free in WA State
(360) 753-1112 - fax

Lori Anderson

From: Allan Brettman [allanbrettman@news.oregonian.com]
Sent: Friday, October 23, 2009 3:57 PM
To: Lori Anderson
Subject: RE: Vancouver mayor's race

Donald Powell, a \$150 contributor to Pollard's campaign as of 9/11/09, is listed as an executive with Portland General Electric. He never worked there. I called him today. He said his occupation involves politics, Democratic side only. Said he was busy and we didn't have time to chat long.

>>> "Lori Anderson" <landerson@pdc.wa.gov> 10/23/2009 3:44 PM >>>
The campaign needs to be in substantial compliance. What is incorrect?

Lori Anderson
Staff - WA St Public Disclosure Commission
(360) 664-2737 - phone
1-877-601-2828 toll free in WA State
(360) 753-1112 - fax

-----Original Message-----

From: Allan Brettman [mailto:allanbrettman@news.oregonian.com]
Sent: Friday, October 23, 2009 3:31 PM
To: Lori Anderson
Subject: Re: Vancouver mayor's race

Thanks.

Is it a big deal, little deal, or no deal at all if the campaign lists incorrect information about a contributor's (\$100 and up) occupation and employer?

Allan Brettman
Staff Writer
The Oregonian
allanbrettman@news.oregonian.com
503-294-5900 (o)
503-913-4188 (m)
877-477-7083 (fax)

>>> "Lori Anderson" <landerson@pdc.wa.gov> 10/23/2009 2:33 PM >>>
No complaints have been filed in the Vancouver mayor's race, Al. The attached spreadsheet shows how much mayoral candidates from around the state have raised and spent so far. \$0 means that the candidate chose the reporting option where they don't file reports and are limited to raising and spending \$5,000. Highlight = incumbent mayor.

Lori Anderson

Staff - WA St Public Disclosure Commission

(360) 664-2737 - phone

1-877-601-2828 toll free in WA State

(360) 753-1112 - fax

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Exhibit 5

Exhibit 5
(No. 3:09-cv-05662-RBL)

BOPP, COLESON & BOSTROM
1 South Sixth Street
Terre Haute, Indiana 47807-3510
(812) 232-2434



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 403, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX: (360) 753-1112

TO: Members, Public Disclosure Commission

FROM: Vicki L. Rippie, Assistant Director
Public Information and Policy Development

DATE: March 18, 1996

SUBJECT: Interpretation of RCW 42.17.105(8) Regarding the End Date of the Provision Restricting Contributions Within 21 Days of a General Election

RCW 42.17.105(8) was enacted in 1985. It created a period within 21 days of a general election when candidates for statewide office could not accept more than \$50,000 from one source and candidates for other offices and all political committees could not accept more than \$5,000 from any one source.

RCW 42.17.105(8) says:

"It is a violation of this chapter for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17.090 in the aggregate exceeding fifty thousand dollars for any campaign for statewide office or exceeding five thousand dollars for any other campaign subject to the provisions of this chapter within twenty-one days of a general election. This subsection does not apply to contributions made by, or accepted from, a bona fide political party as defined in this chapter, excluding the county central committee or legislative district committee." (Emphasis added)

Since its enactment, this provision has been interpreted as beginning at 12:01 a.m. on the third Tuesday before a general election. This "begin" date corresponds with the due date of the 21-Day Pre-General C-4 report as well as the onset of the period when notice of contributions of over \$500 have to be telephoned or faxed in to the PDC office.

Not too long ago, staff discovered in the files the attached interpretation adopted on April 28, 1992, that says that the 21-day period ends at 11:59 p.m. on election day. This part of the interpretation was never implemented. Staff continued to advise filers in the instruction manuals and other hand-outs that the period terminated at the end of Monday, the day before the election. Most assuredly, this failure to implement the new interpretation was not intentional. It occurred at a time when staff was emersed in analyzing the effects of pending legislation, including Initiative 134.

Since none of the current members of the Commission were on the board when this interpretation was adopted, and implementing the 1992 interpretation would mean we'd be changing the advice given to filers, we thought it best to bring this issue back to you for further consideration.

- over -

"The public's right to know of the financing of political campaigns and lobbying and the financial affairs of elected officials and candidates far outweighs any right that these matters remain secret and private."

RCW 42.17.010 (10)

Def Resp to 1st RFP
000697

Exhibit 5, Page 2

Supporters of including election day in the restricted period might argue that, especially regarding ballot issues, the interpretation issued in 1992 would prevent political committees and candidates (who are not subject to overall limits) from receiving large sums of money on election day to do last-minute polling for get-out-the-vote campaigns and possibly to buy additional broadcast advertising.



It should also be noted, however, that including election day in the period (as written in the 1992 interpretation) means that the 21 day provision actually runs 22 days. Further, unless a candidate or committee is able to charge the cost of services rendered by a polling firm, broadcaster or other vendor, the candidate or committee would have to solicit the over-\$5,000 contribution, get it in hand, and take it to the service provider, all early enough on election day for the funds to have an impact.

I certainly regret that the Commission's initial decision was not implemented properly. (In case you're wondering, I know of no other circumstance -- before or since April of 1992 -- where this has occurred.)

Attachment: Interpretation No. 105-92-1



October 1996

Monthly Planner

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15 Start Date of 21 Day Prov.	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

November 1996

Monthly Planner

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4 Historical End Date	5 End Date by Interpretation	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

Def Resp to 1st RFP
000698

Exhibit 5, Page 3



INTERPRETATION

_____	DATE:	_____	NUMBER: 105-92-1
_____	CANCELS:	_____	APPROVED: 4/28/92
_____	SEE ALSO:	_____	

WITHIN 21 DAYS OF A GENERAL ELECTION, DEFINITION

"Within 21 days of a general election" as that phrase is used in RCW 42.17.105(8) means the period beginning at 12:01 a.m. PST on the third Tuesday before the general election held in November and ending at 11:59 p.m. PST on the day of the election.

Regular Commission Meeting Minutes
for March 26, 1996
Page 5 of 21

Commissioner Brazier believes that a chief executive should not solicit the employees of any board or commission. Others felt the proposed interpretation of 'agency' was too broad.

Voting in favor: Commissioner Marchisio
Voting against: Commissioners Whiteside, Brazier, Maehara,
and Cothorn

Motion fails.

RCW 42.17.105(8)

Ms. Rippie discussed the interpretation of RCW 42.17.105(8), which prohibits a person from making or a candidate or political committee from accepting from any one person contributions exceeding \$5,000 within 21 days of a general election. Staff has been advising filers that the period terminated at the end of Monday, the day before the election. However, an interpretation adopted by the Commission in 1992 was recently discovered and it says the 21-day period ends at 11:59 p.m. on Tuesday, election day. The staff's failure to implement the 1992 interpretation was inadvertent. Since none of the current members of the Commission were on the board when this interpretation was adopted, and since implementing the 1992 interpretation would mean changing advice given to filers, staff thought it best to bring the issue back to the Commission for further consideration.

MOTION 96-145

Moved by Commissioner Brazier, seconded by Commissioner Cothorn:

The Commission repeal the 1992 interpretation of RCW 42.17.105(8) and adopt an interpretation that reads: 'Within 21 days of a general election' as that phrase is used in RCW 42.17.105(8) means the period beginning at 12:01 a.m. PST on the third Tuesday before the general election held in November and ending at 11:59 p.m. PST on the day before the election.

The motion received unanimous approval.

Def Resp to 1st RFP
000762

Exhibit 5, Page 5

Regular Commission Meeting Minutes
for March 26, 1996
Page 5 of 21

Commissioner Brazier believes that a chief executive should not solicit the employees of any board or commission. Others felt the proposed interpretation of 'agency' was too broad.

Voting in favor: Commissioner Marchisio
Voting against: Commissioners Whiteside, Brazier, Maehara,
and Cothern

Motion fails.

RCW 42.17.105(8)

Ms. Rippie discussed the interpretation of RCW 42.17.105(8), which prohibits a person from making or a candidate or political committee from accepting from any one person contributions exceeding \$5,000 within 21 days of a general election. Staff has been advising filers that the period terminated at the end of Monday, the day before the election. However, an interpretation adopted by the Commission in 1992 was recently discovered and it says the 21-day period ends at 11:59 p.m. on Tuesday, election day. The staff's failure to implement the 1992 interpretation was inadvertent. Since none of the current members of the Commission were on the board when this interpretation was adopted, and since implementing the 1992 interpretation would mean changing advice given to filers, staff thought it best to bring the issue back to the Commission for further consideration.

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The motion received unanimous approval.

Def Resp to 1st RFP
000763

Exhibit 5, Page 6

The Honorable RONALD B. LEIGHTON

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

FAMILY PAC,

Plaintiff,

v.

ROB MCKENNA, in his official capacity
as Attorney General of Washington, and
JIM CLEMENTS, DAVE SEABROOK,
JANE NOLAND, JENNIFER JOLY and
BARRY SEHLIN, members of the Public
Disclosure Commission, in their official
capacities,

Defendants.

NO. C09-5662 RBL

DECLARATION OF
MICHAEL T. SMITH (#2)

I, Michael T. Smith, declare as follows:

1. I am over the age of 18 and competent to testify on the matters contained in this declaration.

2. I was appointed the first Chief Technology Officer for the Washington State Public Disclosure Commission (PDC) in March of 2000 and continue to serve the PDC in that capacity. Prior to joining the PDC, I worked for the Washington State Health Care Authority, the Department of Health, the Department of Ecology and the Office of the Superintendent of Public Instruction. I have also served as a management consultant for a private firm in Olympia, providing technology consulting services to the Office of Financial Management, the

DECLARATION OF
MICHAEL T. SMITH (#2)
NO. C09-5662 RBL

1

ATTORNEY GENERAL OF WASHINGTON
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100
(360) 664-9006

1 Department of Social and Health Services and the Governor's Office. In total, I have worked
2 in the technology field for 18 years.

3 3. I understand a copy of a declaration I filed in another federal court case, *Human*
4 *Life of Washington v. Brumsickle* (U.S. District Court Case No. 08-0590), was provided to this
5 court as part of the State's response to the motion for temporary restraining order and
6 preliminary injunction. This declaration supplements and updates that information.

7 4. As the PDC's Chief Technology Officer, I supervise the information technology
8 (IT) unit that provides data entry into and maintains the agency's website and database, which
9 is located at www.pdc.wa.gov. Providing campaign, lobbyist and other information to the
10 public as directed in Chapter 42.17 RCW is key to the PDC's mission. With respect to this, the
11 PDC's mission statement states in pertinent part that the PDC was created and empowered by
12 Initiative of the People to "provide timely and meaningful public access to accurate
13 information about the financing of political campaigns, lobbyist expenditures and the financial
14 affairs of public officials and candidates." Our vision statement describes that "We build
15 confidence in the political process and government." Given today's technology-driven and
16 information-driven culture, the work of the IT division is a critical part of achieving the
17 agency's mission and vision.

18 5. The PDC's website and database and our state's campaign finance and lobbying
19 disclosure laws have resulted in national public recognition by several organizations, which I
20 understand is detailed in Interim Executive Director Doug Ellis's declaration. In addition to
21 those recognitions and awards, the PDC's website was also nominated in 2004 for the "Best
22 Government and Law Website" by "The Webby Awards." The Webby Awards are determined
23 by the International Academy of Digital Arts & Sciences.

24 6. The PDC website provides information on the agency, Commission meetings,
25 state disclosure laws and Commission rules, enforcement cases, stakeholder meetings, filer
26 resource information, sample forms, manuals and brochures, a training video for filers, training

1 schedules for filers, news releases, historical reports and Fact Books, a lobbyist directory,
2 lobbyist expenditure reports, links to other websites (such as the Secretary of State, the Federal
3 Election Commission, voter registration sites, and others), and instructions on how to search
4 the database, among other information. A copy of the current home page of the PDC website
5 is attached as Exhibit A.

6 7. One of the agency's long-standing objectives is to increase compliance with the
7 laws and rules, without enforcement actions, and to emphasize prevention over enforcement.
8 One way to do this is to provide information on the website, for the public and the media.
9 Another way to do this is to provide customer service to persons who have questions about the
10 data, or about filing. These are tasks that the IT unit works on every day.

11 8. The website also provides a searchable database of campaign finance
12 information. A copy of the current page with links to the database is attached as Exhibit B.
13 The data is extracted from reports filed with the PDC, and placed into the database. The
14 searchable database contains information on state office candidates, state ballot campaigns, all
15 electronically filing campaigns, and certain local campaigns. A person can also search lists of
16 candidates registered by election year, lists of political committees registered by election year,
17 contribution and expenditure totals, detailed contributions, detailed expenditures, debt, surplus
18 funds, and independent expenditures (for and against). A person can search by contributor
19 name, city, state, zip code, and occupation or employer. A person can also view images of
20 actual reports filed with the PDC. The online data is available back to 2000, when the current
21 query system on the website was established. Attached at Exhibit C is a General Summary
22 Report that I printed on June 14, 2010 showing the number of pages that were viewed through
23 that date. A summary of pages viewed in chart format through June 14, 2010 is attached as
24 Exhibit D. The total number of pages viewed is 6,502,434. The total number of visitors to the
25 website as of June 14 was 1,128,050. The current total number of visitors per month is
26

DECLARATION OF
MICHAEL T. SMITH (#2)
NO. C09-5662 RBL

3

ATTORNEY GENERAL OF WASHINGTON
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100
(360) 664-9006

1 approximately 13,412, and approximately more than 708 visitors per day. Monthly pages
2 viewed typically peak in the fall, near the election dates.

3 9. As described in our fiscal year 2009 *Annual Report* (July 1, 2008 – June 30,
4 2009):

- 5 • Campaign and lobbying reports that were electronically filed were posted by
6 the PDC within fifteen minutes of being electronically filed (1,684 total e-
7 filers, including lobbyists).
- 8 • Campaign and lobbying reports that were submitted on paper (filed by US
9 Mail or hand delivered) were scanned and available on the Web site the same
10 day they were received in the agency's office, and often within an hour.
- 11 • In total, 97,946 reports totaling 386,981 pages filed with the PDC were
12 available on the Internet within hours of receipt. In fiscal year 2009, the PDC
13 website received 40,423 unique visitors, and 596,223 web pages were viewed.
14 (This was about half the number of pages viewed due to improvements made
15 in our website to reduce the number of pages needed to find the specific
16 sought-for data).

17 10. The PDC has an online electronic filing program called ORCA (Online
18 Reporting of Campaign Activity). This program allows candidates and campaign committees
19 to file electronically, rather than on paper. By statute, candidates and political committees
20 must file electronically, if they spend or expect to expend more than \$10,000. Other
21 campaigns not meeting the threshold are encouraged to, and often do, file electronically.
22 ORCA software and training is provided at no cost by the PDC. Increasing the number of
23 candidates submitting reports to our agency using the free PDC software aids the public's
24 immediate access to campaign finance information. It also aids candidates and campaign
25 committees by making their information, and that of opposing campaigns, easily accessible to
26 them.

11. The most significant trend in PDC customer characteristics is that an increasing
number of filers and members of the public have access to ever-evolving technological
resources and they rightfully expect the PDC to utilize the latest technology to meet their

1 needs. Legislative investments (through passage of legislation and appropriations) have
2 enabled the PDC to keep pace with public and filer expectations, and since 1999, the
3 increasing expectation is that filed reports and committee filings be made available
4 electronically. For example, in June 2000, 46 persons filed their PDC reports electronically.
5 Two years later, that number had risen to 370. By March 2006, the agency served 1,954
6 electronic filers. Of the candidates seeking office in 2006, 95% of legislative candidates filed
7 their disclosure reports electronically, and 67% of the local candidates filed their disclosure
8 reports electronically. Both of these numbers are steady increases from the previous year. Of
9 the 576 political committees active in the 2006 election, 61% filed electronically, which is a
10 20% increase from the 2004 election. As of June 1, 2010, there are currently 4,933 electronic
11 filers - 463 candidates, 661 political committees, 3,129 personal financial affairs filers, 435
12 lobbyists and 245 lobbyist employers. The PDC continues to increase the number of
13 electronically filing candidates and political committees through outreach and training, both in
14 our Olympia office and at locations around the state.

15 12. The PDC's performance measures for fiscal year 2009 show that 99.3 percent of
16 candidates, lobbyists, lobbyist employers and public officials meet the statutory filing
17 deadlines. We believe the extremely high compliance rate is a combination of a culture of
18 disclosure in Washington State, plus the ease with which persons can file, particularly
19 electronically. Large committees, small committees and new committees have all filed with
20 success.

21 13. The PDC produces election "fact books" in even-numbered years that
22 summarize the contribution and expenditure data for campaigns. The data for the fact books is
23 extracted by the IT staff from reports filed with the PDC.

24 14. In addition, the IT staff continually works to provide more information and
25 more features and resources to the filers and the public. This is an ongoing task in order to
26 enable filers to file more expeditiously and to provide more timely information to the public,

1 consistent with the legislature's expectations expressed in statute that information from filers
2 be provided electronically via the PDC's website. Here are a few examples of recent and
3 expected upgrades and other activities:

- 4 • In 2006, IT staff planned, designed and launched an electronic version of
5 the C6 form to facilitate filing of timely and accurate independent
6 expenditure information so the public has prompt access to this growing
7 sector of campaign spending. This coincided with the new state
8 electioneering communications law and its mandatory electronic filing
9 component. The C6 form accommodates three kinds of reporting (that
10 required under RCW 42.17.100, RCW 42.17.103 and RCW 42.17.565) in
11 order to simplify disclosure by non-political committees. If a person,
12 other than a political committee, makes an expenditure supporting or
13 opposing a candidate or ballot measure, and that expense is not a
14 contribution, then it is reported on the C6 form.
- 15 • Electronic filing systems for lobbyists and lobbyist employers was
16 developed in 2001 and is anticipated will be updated. Online reports
17 summarizing lobbyist spending are available on the website at
18 <http://www.pdc.wa.gov/Public/Lobbyist/Default.aspx>. Mandatory
19 electronic filing for lobbyists has been the subject of a recent study
20 commissioned by the legislature and the PDC, and depending upon future
21 legislation and funding, there may be enhanced electronic reporting by
22 lobbyists and lobbyist employers in the future.
- 23 • Another feature, called "RSS" (real simple syndication), launched in 2007,
24 enables a person to obtain automatic updates of PDC information via
25 email or a RSS-enabled browser. At this time, an RSS feed is available
26 for a free subscription service to the PDC News (newsletter) and also
allows users to track individual campaigns or races.
- For the 2007 election, IT staff also compiled, developed and produced
4,750 of the Candidate Campaign Materials CDs. These are CDs that
contain campaign materials and information, and are provided free-of-
charge to candidates and campaigns. Due to the increased amount of
information available on the PDC website, there is also a reduced need
currently to produce CDs.
- A new electronic filing system for personal financial affairs statements (F1
forms) was launched on January 13, 2008 to facilitate filing of timely and
accurate F1 reports.

- A new feature on the website launched in April 2008 called the “Gubernatorial Money Map” provides a map of Washington State counties. A person can hover his or her computer’s mouse over a county, and see hourly updates of contributions to the gubernatorial candidates. The information for this feature is extracted from contribution reports filed with the PDC, including address information such as zip codes.
- An updated and enhanced query system is being developed for the website, and we expect to launch it in June 2010. This will replace the system designed in 2008 and facilitate even faster searches on our website, with updated technologies and designs found on most modern websites.
- A new feature launched in 2010 allows campaigns to electronically file their candidate or committee registrations forms (C1 or C1pc).
- Another new feature launched in 2010 was an online database of enforcement cases, which allows persons to search by section of law, among other search factors.
- The Commission now streams all meetings over the Internet allowing persons who may not be able to attend in person to participate in the process.

15. In addition, the IT unit’s tasks include systematically upgrading programs to make them as error retardant and user friendly as possible.

16. I know the media use our data to provide information and analysis to voters and I have helped to respond to their requests for information concerning our data. The National Institute on Money in State Politics uses our information and makes frequent requests for copies of our data.


I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct and of my own knowledge.

DATED and SIGNED this ____ day of June, 2010 at Olympia, Washington.

MICHAEL T. SMITH

Exhibit A

[Sitemap](#) [Contact Us](#) [Comments](#)


Public Disclosure Commission

PDC Website Search **SEARCH**

HOME PUBLIC RESOURCES FILER RESOURCES SEARCH THE DATABASE VIEW ACTUAL REPORTS

ABOUT US COMMISSION MEETINGS HISTORICAL DATA LAWS & RULES ENFORCEMENT & COMPLIANCE STAKEHOLDER MEETINGS LINKS ACCOUNTABILITY

PDC News [BOOKMARK](#)

May 27, 2010
The Commission approved language for an interpretation regarding Public Service Announcements by State Elected Officials & Municipal ...
[Read More](#)

[Past PDC News](#)

[Media Releases](#)


Manuals & Brochures

Get it here
Click for more details...

WASHINGTON STATE

FOR CANDIDATE FILERS

IN NATIONAL SURVEY



Grading State Disclosure 2008

[Take Our One Minute SURVEY](#)

[Register to VOTE](#)

About this Web Site

The Washington State Public Disclosure Commission (PDC) Website is divided into five (5) sections.

PDC Home

Find information on Commission meeting agendas, minutes, enforcement activity, laws, rules, rulemaking and stakeholder meetings.

Public Resources

Look-up information on the financing of political campaigns and lobbyist expenditures.

Filer Resources

Browse for information about filing requirements, access forms, manuals, brochures, electronic filing options, and training schedules.

Search the Database

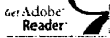
Access the most recent campaign finance data.

View Actual Reports

Find actual reports filed with the Public Disclosure Commission.

Training Videos

Adobe Reader® is required to view PDF files. Click the image to go to Adobe's web site.



How to Search for Campaign Finance Information

Click the [Search the Database](#) tab located above to display a list of registered candidates, political committees and their campaign contributions and expenditures.

How to Search for Reports Filed with the Commission

To view images of reports filed by political committees, lobbyists, lobbyist employers and other candidates that have a Public Disclosure Commission filing requirement, click the [View Actual Reports](#) tab above.





For information on making your search more precise or getting useful results, please read our tips on [detailed search instructions](#).

Requests for PDC Public Records

Can't find what you're looking for on the web site?

Click [Instructions](#) for requesting manuals, brochures, reports, forms or any other Public Disclosure Commission public record not found on this website.

Filer Resource Quick Links

-  [L2 & L3 Lobbyist/Lobbyist Employer Login](#)
-  [C6 Advertising Login](#)
-  [F1 Personal Financial Affairs Login](#)
-  [Electronic C1/C1PC Registration](#)

[HOME](#) / [PRIVACY NOTICE](#) / [EMPLOYMENT](#) / [SITE MAP](#)

PUBLIC DISCLOSURE COMMISSION / 711 CAPITOL WAY #208 / PO BOX 40908 / OLYMPIA, WA 98504-0908

TOLL FREE - 1-877-801-2828 / PHONE 360-753-1111 / FAX (360)753-1112 / EMAIL pdc@pdc.wa.gov

OFFICE HOURS: 8:00AM - 5:00PM Monday - Friday - Closed Weekends & State Holidays.

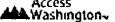
 Access Washington

Exhibit B

[Sitemap](#) [Contact Us](#) [Comments](#)

 **Building Confidence in the Political Process**
Public Disclosure Commission

SEARCH



[HOME](#) [PUBLIC RESOURCES](#) [FILER RESOURCES](#) [SEARCH THE DATABASE](#) [VIEW ACTUAL REPORTS](#)

[CANDIDATES](#) [POLITICAL COMMITTEES](#) [STATEWIDE BALLOT INITIATIVES](#) [PARTY COMMITTEES](#) [CAUCUS COMMITTEES](#) [ADVANCED SEARCH](#)

SEARCH THE DATABASE



Welcome to the Public Disclosure Commission's Search the Database website. From here, you have access to most of the reports filed with the Public Disclosure Commission since 1996. The reports are categorized by who filed them - simply click one of the buttons above to find what records are available in that category.

Terms used in the reports are defined in the glossary and the help file explains how to search for reports and navigate through the results. The glossary and [help file](#) will be available from other webpages - look for these icons:  

[HOME](#) / [PRIVACY NOTICE](#) / [EMPLOYMENT](#) / [SITE MAP](#)

PUBLIC DISCLOSURE COMMISSION / 711 CAPITOL WAY #206 / PO BOX 40908 / OLYMPIA, WA 98504-0908

TOLL FREE - 1-877-601-2828 / PHONE 360-753-1111 / FAX (360)753-1112 / EMAIL pdcc@pdcc.wa.gov

OFFICE HOURS: 8:00AM - 5:00PM Monday - Friday - Closed Weekends & State Holidays.



Exhibit C


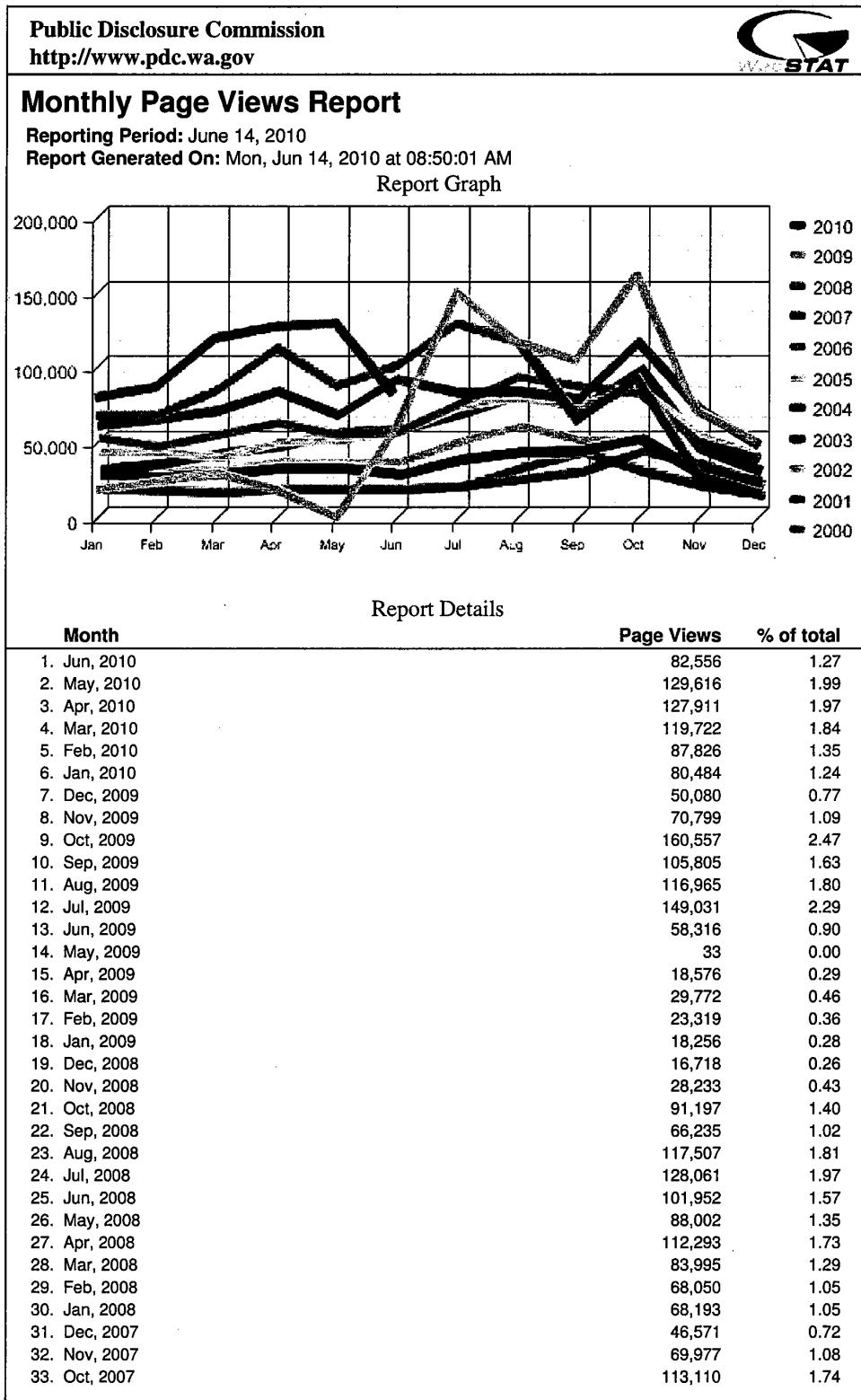
Public Disclosure Commission http://www.pdc.wa.gov				
General Summary Report				
Report Generated On: Mon, Jun 14, 2010 at 08:55:00 AM				
Summary				
Time Period	Page Views	New Visitors	Return Visitors	Total Visitors
Today	925	68	77	145
Yesterday	3,491	207	176	383
Last Seven Days	47,370	2,949	2,704	5,653
This Month's Daily Avgs	5,898.29	372.43	336.43	708.86
This Month's Totals	82,576	5,214	4,710	9,924
Last Month's Totals	129,616	9,398	7,612	17,010
Site History				
First Page View	Sat, Jul 1, 2000 at 02:53:08 pm			
Last Page View	Mon, Jun 14, 2010 at 08:54:27 am			
Total Page Views To Date	6,502,454			
Total Visitors To Date	1,128,065			
Date of Highest Page Views	11,182 (Mon, Jul 28, 2008)			

Exhibit C
Page 1 of 1

EXHIBIT

C

Exhibit D



34. Sep, 2007	77,587	1.19
35. Aug, 2007	82,432	1.27
36. Jul, 2007	81,676	1.26
37. Jun, 2007	89,388	1.37
38. May, 2007	67,416	1.04
39. Apr, 2007	82,558	1.27
40. Mar, 2007	69,895	1.07
41. Feb, 2007	63,853	0.98
42. Jan, 2007	60,359	0.93
43. Dec, 2006	37,783	0.58
44. Nov, 2006	48,712	0.75
45. Oct, 2006	80,338	1.24
46. Sep, 2006	85,763	1.32
47. Aug, 2006	90,374	1.39
48. Jul, 2006	73,351	1.13
49. Jun, 2006	55,358	0.85
50. May, 2006	53,251	0.82
51. Apr, 2006	61,131	0.94
52. Mar, 2006	53,203	0.82
53. Feb, 2006	45,446	0.70
54. Jan, 2006	51,590	0.79
55. Dec, 2005	39,190	0.60
56. Nov, 2005	52,184	0.80
57. Oct, 2005	82,612	1.27
58. Sep, 2005	72,790	1.12
59. Aug, 2005	77,882	1.20
60. Jul, 2005	71,540	1.10
61. Jun, 2005	55,644	0.86
62. May, 2005	49,654	0.76
63. Apr, 2005	48,768	0.75
64. Mar, 2005	37,511	0.58
65. Feb, 2005	42,217	0.65
66. Jan, 2005	41,848	0.64
67. Dec, 2004	27,397	0.42
68. Nov, 2004	43,672	0.67
69. Oct, 2004	94,062	1.45
70. Sep, 2004	69,679	1.07
71. Aug, 2004	79,063	1.22
72. Jul, 2004	66,087	1.02
73. Jun, 2004	55,626	0.86
74. May, 2004	53,664	0.83
75. Apr, 2004	44,728	0.69
76. Mar, 2004	39,735	0.61
77. Feb, 2004	32,517	0.50
78. Jan, 2004	28,782	0.44
79. Dec, 2003	21,099	0.32
80. Nov, 2003	26,036	0.40
81. Oct, 2003	49,149	0.76
82. Sep, 2003	41,250	0.63
83. Aug, 2003	40,300	0.62
84. Jul, 2003	35,408	0.54
85. Jun, 2003	25,663	0.39
86. May, 2003	29,558	0.45
87. Apr, 2003	29,114	0.45
88. Mar, 2003	25,727	0.40
89. Feb, 2003	23,476	0.36
90. Jan, 2003	25,584	0.39
91. Dec, 2002	16,211	0.25
92. Nov, 2002	24,119	0.37
93. Oct, 2002	47,759	0.73
94. Sep, 2002	47,047	0.72
95. Aug, 2002	57,173	0.88

96. Jul, 2002	47,039	0.72
97. Jun, 2002	33,814	0.52
98. May, 2002	32,736	0.50
99. Apr, 2002	33,190	0.51
100. Mar, 2002	27,537	0.42
101. Feb, 2002	27,381	0.42
102. Jan, 2002	25,132	0.39
103. Dec, 2001	17,149	0.26
104. Nov, 2001	29,268	0.45
105. Oct, 2001	39,084	0.60
106. Sep, 2001	25,385	0.39
107. Aug, 2001	20,947	0.32
108. Jul, 2001	16,134	0.25
109. Jun, 2001	13,405	0.21
110. May, 2001	13,713	0.21
111. Apr, 2001	13,593	0.21
112. Mar, 2001	11,854	0.18
113. Feb, 2001	12,710	0.20
114. Jan, 2001	14,188	0.22
115. Dec, 2000	9,738	0.15
116. Nov, 2000	15,759	0.24
117. Oct, 2000	26,061	0.40
118. Sep, 2000	38,683	0.59
119. Aug, 2000	28,993	0.45
120. Jul, 2000	16,234	0.25
Total: »		6,502,434 100.00%

- A new feature on the website launched in April 2008 called the "Gubernatorial Money Map" provides a map of Washington State counties. A person can hover his or her computer's mouse over a county, and see hourly updates of contributions to the gubernatorial candidates. The information for this feature is extracted from contribution reports filed with the PDC, including address information such as zip codes.
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- The Commission now streams all meetings over the Internet allowing persons who may not be able to attend in person to participate in the process.

15. In addition, the IT unit's tasks include systematically upgrading programs to make them as error retardant and user friendly as possible.

16. I know the media use our data to provide information and analysis to voters and I have helped to respond to their requests for information concerning our data. The National Institute on Money in State Politics uses our information and makes frequent requests for copies of our data.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct and of my own knowledge.

DATED and SIGNED this 16th day of June, 2010 at Olympia, Washington.


MICHAEL T. SMITH

DECLARATION OF
MICHAEL T. SMITH (#2)
NO. C09-5662 RBL

7

ATTORNEY GENERAL OF WASHINGTON
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100
(360) 664-9006

Activity in Case 3:09-cv-05662-RBL Family Pac v. Reed et al Motion He...

Subject: Activity in Case 3:09-cv-05662-RBL Family Pac v. Reed et al Motion Hearing
From: ECF@wawd.uscourts.gov
Date: Wed, 1 Sep 2010 11:26:03 -0700
To: ECF@wawd.uscourts.gov

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

United States District Court for the Western District of Washington

Notice of Electronic Filing

The following transaction was entered on 9/1/2010 at 11:26 AM PDT and filed on 9/1/2010

Case Name: Family Pac v. Reed et al

Case Number: [3:09-cv-05662-RBL](#)

Filer:

Document Number: 86(No document attached)

Docket Text:

MINUTE ENTRY for proceedings held before Judge Ronald B. Leighton- Dep Clerk: *Jean Boring*; Pla Counsel: *Joe LaRue*; Def Counsel: *Nancy Krier / Linda Dalton*; CR: *Teri Hendrix*; Motion Hearing held on 9/1/2010: ORAL ARGUMENT conducted on [66] MOTION for Summary Judgment filed by Family Pac. For the reasons orally stated on the record, Plaintiff's Motion for Summary Judgment is DENIED in part and GRANTED in part. (JAB)

3:09-cv-05662-RBL Notice has been electronically mailed to:

David J. Burman dburman@perkinscoie.com, docketsea@perkinscoie.com, jmccluskey@perkinscoie.com

Gordon W. Sivley gsivley@co.snohomish.wa.us, cpeterson@co.snohomish.wa.us

Linda Anne Dalton lindad@atg.wa.gov, gceef@atg.wa.gov, nerissar@atg.wa.gov

Nancy J Krier nkrier@pdc.wa.gov, pdc@pdc.wa.gov

Kevin J Hamilton KHAMILTON@PERKINSOIE.COM, CANDERSON@PERKINSOIE.COM, docketsea@perkinscoie.com

Nicholas Peter Gellert NGellert@perkinscoie.com, Rkelly@perkinscoie.com, docketsea@perkinscoie.com

James Bopp, Jr jbobppjr@aol.com

Activity in Case 3:09-cv-05662-RBL Family Pac v. Reed et al Motion He...

William B. Stafford WStafford@perkinscoie.com, CAnderson@perkinscoie.com,
DBurman@perkinscoie.com, JMcCluskey@perkinscoie.com, KHamilton@perkinscoie.com,
NGellert@perkinscoie.com, RKelly@perkinscoie.com

Scott F Bieniek sbieniek@bopplaw.com

Randy Elf relf@bopplaw.com

Barry Bostrom bbostrom@bopplaw.com

Zachary Kester zkester@bopplaw.com

Joseph E La Rue jlarue@bopplaw.com

3:09-cv-05662-RBL Notice will not be electronically mailed to:

United States District Court
WESTERN DISTRICT OF WASHINGTON

JUDGMENT IN A CIVIL CASE

FAMILY PAC,

v.

SAM REED, et al.,

CASE NUMBER: C09-5662 RBL

[✓] **Decision by Court.** This action came under consideration before the Court. The issues have been considered and a decision has been rendered.

The Court has determined that there is no just reason for delay and upon an express direction for the entry of judgment, FRCP 54(b), it is **ORDERED** that

Plaintiff's Motion for Summary Judgment on the Unconstitutionality of RCW 42.17.105(8) is GRANTED. Plaintiff's Motion for Summary Judgment on its remaining claims is DENIED.

DATED: September 1, 2010

BRUCE RIFKIN
Clerk

/s/ Jean Boring
(By) Deputy Clerk

The Honorable RONALD B. LEIGHTON

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

FAMILY PAC,

Plaintiff,

v.

ROB MCKENNA, in his official capacity
as Attorney General of Washington, and
JIM CLEMENTS, DAVE SEABROOK,
JANE NOLAND, JENNIFER JOLY and
BARRY SEHLIN, members of the Public
Disclosure Commission, in their official
capacities,

Defendants.

NO. C09-5662 RBL

NOTICE OF APPEAL

TO: CLERK OF THE ABOVE ENTITLED COURT

AND TO: ALL PARTIES OF RECORD

Notice is hereby given, pursuant to Fed. R. App. P. 3 and Ninth Circuit Rule 3-1, that Washington State Attorney General ROB MCKENNA, in his official capacity as Attorney General of Washington, and JIM CLEMENTS, DAVE SEABROOK, JANE NOLAND, JENNIFER JOLY and BARRY SEHLIN, members of the Public Disclosure Commission, in their official capacities, Defendants in the above-named case, appeal that portion of the

NOTICE OF APPEAL
NO. C09-5662 RBL

1

ATTORNEY GENERAL OF WASHINGTON
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100
(360) 664-9006

1 Judgment (Dkt. #87) filed on September 1, 2010 that found RCW 42.17.105(8) to be
2 unconstitutional. The Defendants' Representation Statement is attached to this Notice, as
3 required by Ninth Circuit Rule 3-2.

4 DATED this 16th day of September, 2010.

6 ROBERT M. MCKENNA
7 Attorney General

8 s/ Linda A. Dalton
9 LINDA A. DALTON, WSBA #15467
10 Senior Assistant Attorney General
11 NANCY J. KRIER, WSBA #16558
12 General Counsel for the Public Disclosure
13 Commission and Special Assistant
14 Attorney General
15 Attorneys for Defendants
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