

EXHIBIT I

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

4
5 WASHINGTON STATE REPUBLICAN)
PARTY, et al.,)

6 Plaintiffs,)

NO. CV05-0927-JCC

7 WASHINGTON STATE DEMOCRATIC)
8 CENTRAL COMMITTEE, et al.,)

9 Plaintiff Intervenors,)

10 LIBERTARIAN PARTY OF)
WASHINGTON STATE, et al.,)

11 Plaintiff Intervenors,)

12 vs.)

13 STATE OF WASHINGTON, et al.,)

14 Defendant Intervenors,)

15 WASHINGTON STATE GRANGE,)
16 et al.,)

Defendant Intervenors)

17
18 DEPOSITION UPON ORAL EXAMINATION OF DWIGHT PELZ
19

20
21 Wednesday, August 4, 2010
22 Tacoma, Washington
23
24
25

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10 I N D E X E X H I B I T

11	EXHIBIT NO.	DESCRIPTION	PAGE/LINE
12	NO. 1	Document entitled Rules for the Selection of Democratic Candidates and Nominees for Public Office dated 9/26/09; 5 pgs.	24 9
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15	NO. 2	Document entitled Top Two Primary FAQ dated April 2010; 3 pgs.	31 1

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1 BE IT REMEMBERED that on Wednesday, August 4,
2 2010, at 9:26 a.m. at 1250 Pacific Avenue, Tacoma,
3 Washington, before DIXIE J. CATTELL, Notary Public in and
4 for the State Washington, appeared DWIGHT PELZ, the witness
5 herein;

6 WHEREUPON, the following proceedings were had,
7 to wit:

8
9 DWIGHT PELZ, having been first duly sworn by
10 the Notary, testified as follows:

11
12 EXAMINATION

13 BY MR. PHARRIS:

14 Q Mr. Pelz, have you ever had your deposition taken before?

15 A No.

16 Q Okay, never. The purpose, particularly at least for this
17 case, is to exchange information about the case for
18 possible use in the trial and other proceedings. The
19 reporter will take all of your testimony down and she'll
20 make a transcript that will be furnished to you before it's
21 finished so you can correct places you've been misquoted or
22 where there are obvious errors.

23 If you don't understand a question, please ask for
24 clarification. If you don't know the answer, it's
25 perfectly okay to say that.

1 And the only other thing, since it's a sound
2 recording, is your answers have to be spoken aloud, so
3 gestures and nodding and body language aren't enough. I'll
4 try to remember to point that out.

5 Your attorney may object to make a record. However,
6 unless he instructs you not to answer, go ahead and answer
7 the question anyway and we'll deal with the objections
8 later if we need to. If you need a break, please let me
9 know and we should be able to do that. We might even be
10 able to figure out where the bathroom is somewhere down the
11 hall here.

12 Just for the record, could you state and spell your
13 name?

14 A Dwight Pelz, P-E-L-Z, and Dwight is D-W-I-G-H-T.

15 Q Thank you. Mr. Pelz, this seems obvious, but I'm asking
16 anyway. Are you a resident of the state of Washington?

17 A Yes, I am.

18 Q What city and county?

19 A Seattle, King County.

20 Q How long have you lived in Washington?

21 A Well, I've been here since '75, which would be 35 years,
22 and I lived here for three years -- or four years prior to
23 that, so I've spent a total of about 39 or 40 years in
24 Washington.

25 Q Do you regularly vote --

1 A Yes.

2 Q -- in state elections?

3 A Yes.

4 MR. MCDONALD: Can I stop you for a second?

5 She's going to have a lot of trouble if you don't let him
6 finish the question before you answer.

7 THE WITNESS: Okay, got it.

8 MR. MCDONALD: She's got to keep track of which
9 voice is doing what.

10 THE WITNESS: Right.

11 MR. MCDONALD: Go ahead.

12 Q (By Mr. Pharris) What is your educational background?

13 A Bachelor's degree.

14 Q Okay. In what field?

15 A General studies.

16 Q General studies.

17 A Ask me any question.

18 Q Good. And what's your work history, your professional --

19 A I've been a political professional for about 35 years. I
20 was a member of the State Senate for six years, a member of
21 a King County Council for nine years, Chair of the State
22 Party for four and a half years.

23 Q Okay. Just so we have it on the record, what were the
24 years you were in the State Senate?

25 A '91 to '97.

1 Q What were the years you were the King County Council?

2 A '97 to '05 to '06.

3 Q So to clarify, that was 1997 to 2006?

4 A Correct.

5 Q And am I correct that both the state senator and King
6 County council member, at least during these times, were
7 partisan public offices?

8 A Correct.

9 Q And were you affiliated with a party when you hold those
10 offices?

11 A Democratic Party.

12 Q What -- I think you said your current position. Could you
13 repeat that for the record? You're the -- go ahead.

14 A I'm the Chairman of the Washington State Democratic Party,
15 but the official title is the Chair of the Washington State
16 Democratic Central Committee.

17 Q How long have you held this position?

18 A Four and a half years.

19 Q And how were you selected/chosen for this position?

20 A Chosen by the Central Committee in January of the even --
21 the odd year.

22 Q So January of each odd year the Central Committee elects a
23 chair?

24 A Correct.

25 Q And so you said four and a half years. So you've served

1 since some time in 2006?

2 A Correct.

3 Q So you were again elected apparently in 2007 and 2009?

4 A I was elected in '06 to fill one year of a term.

5 Q Um-hmm.

6 A Then reelected in '07 and '09.

7 Q Okay. Could you just generally describe what your duties
8 are as chair of the Central Committee?

9 A Well, I have responsibility for the budget, managing the
10 budget and raising the budget of the State Party; the staff
11 of -- well, the staff varies in size -- reports to me.
12 However, I have an executive director who directly
13 supervises our permanent staff, and then -- anyway, we
14 have -- I think we had eight staff at the beginning of this
15 year, and right now we have about 60-some.

16 Q It's election year, so that makes a difference.

17 A It's election year, correct. And they all formally work
18 for me, but believe me, I don't supervise them.

19 Q Mr. Pelz, are you compensated for this job?

20 A I am.

21 Q Okay. Do you work full-time?

22 A Correct.

23 Q Now, you mentioned that there's an executive director also,
24 and you got into this slightly, but what are the
25 differences between your duties and the executive

1 director's duties?

2 A I am in charge of fund-raising for the party. I'm the
3 public voice for the party. I chair our Central Committee
4 meetings and so I have more direct contact with the party
5 organizations throughout the state and the leadership of
6 the party and the executive committee of the party. I
7 don't go to staff meetings.

8 Q So the executive director is more internal staff-
9 management --

10 A Staff management, right.

11 Q -- type --

12 Are you a member of the Democratic Party?

13 A Well, we don't have formal membership in the Democratic
14 Party, but I consider myself a Democrat.

15 Q Did you review any specific material in preparation for
16 this deposition?

17 A No.

18 Q Do you understand that you might be called as a witness in
19 this case?

20 A If you say so.

21 Q Well, it would be my decision, but, yeah. Have you
22 discussed -- or what is your understanding of the subjects
23 you might be asked to testify about?

24 A Top Two Primary, internal decision-making.

25 Q Could you give a little more detail about the structure of

1 the Washington State Democratic Party organization? You
2 mentioned the Central Committee. How is it structured? Go
3 ahead and go into this a little bit.

4 A The party reorganizes every two years following PCO
5 elections.

6 Q PCO elections, just again, that's --

7 A Precinct Committee Officers.

8 Q -- Precinct Committee Officers?

9 A Right. And we have a term of art, elected PCO's and
10 appointed PCO's. The elected PCO's are elected in the
11 even-year elections, and then the local party organizations
12 are expected to reorganize in December of the even year or
13 January of the odd year in preparation for the late January
14 Central Committee meeting at which the state party chair
15 will be chosen. So PCO -- the elected PCO's participate
16 either through their Legislative District Organization, LD
17 organization, or through their county organization, and
18 they attend a reorganization meeting in December or January
19 where they choose a chair and vice chair and various
20 officers, but for our purposes the important point is they
21 pick a state committee man and a state committee woman.
22 And the state committee man and state committee woman then
23 attend the meeting in January of the Central Committee,
24 State Central Committee, and they choose the chair at that
25 point. And we have potentially 49 LD organizations and 39

1 county organizations, which is a total of potentially -- I
2 always get this confused -- 88, 40 plus 50.

3 MR. MCDONALD: Times two.

4 A Yeah, times two. That's why I get confused.

5 THE WITNESS: 176?

6 MR. MCDONALD: Yes.

7 A 176.

8 MR. MCDONALD: Although you're not allowed me
9 ask me questions during the deposition --

10 THE WITNESS: Oh, I'm sorry.

11 MR. MCDONALD: -- and I'm not allowed to answer.

12 THE WITNESS: Yes. Okay.

13 A So, 176 potential members of the Central Committee. At any
14 time we may have two or three counties that aren't
15 organized and one or two legislative districts that aren't
16 organized, but these newly elected State Central Committee
17 men and women attend the meeting in January and elect a
18 chair.

19 Q (By Mr. Pharris) So just to sort of tie that down, as I
20 understand it, there are 49 legislative districts and
21 potentially each of them would send two?

22 A Right.

23 Q And there are 39 counties and potentially each of them
24 would send two?

25 A Correct.

1 Q So there's a possible 176 members, although there's usually
2 some vacancies?

3 A There's vacancies and not everyone makes it to the meeting,
4 right, to vote.

5 Q How often -- now, you mentioned that they organize and have
6 a meeting at which they elect the chair. Does the full
7 State Democratic Central Committee -- is that the Central
8 Committee or is that --

9 A That's the Central Committee; it's 176 potential members.

10 Q Do they meet at other times during that two-year period or
11 only once every two years?

12 A No, they meet -- the Central Committee meets three times in
13 the even year and twice in the -- I get this confused --
14 three times in the odd year and twice in the even year
15 because in the even year we have a state convention. And
16 the state convention is the higher body than the Central
17 Committee.

18 Q So that gets into my next question, which is who would make
19 the policy? Would it be correct to say it would be
20 ultimately the convention, but in between conventions, then
21 it would be the Central Committee?

22 A Correct, and in between Central Committee meetings, we have
23 an executive board, which has minimal specific powers, but
24 is -- often reflects on issues facing the party between
25 meetings of the Central Committee, but the policies of the

1 party -- the charter, the bylaws -- are written by the
2 convention or the Central Committee.

3 Q To what extent, if any, does the National Democratic Party
4 get involved in these policy decisions?

5 A Minimal. I think that they have national requirements. I
6 don't know the answer to all these things, but they have
7 national requirements that a man and a woman, I believe,
8 represent every jurisdiction, for example.

9 Q Right.

10 A But they have minimal involvement in our decision-making.

11 Q You mentioned earlier that there are county and legislative
12 district party organizations as well; is that correct?

13 A Correct.

14 Q What's the relationship between them? Do they operate
15 independently of the state party? Are they somehow
16 accountable to the state party? How do they relate to each
17 other?

18 A Yes.

19 MR. MCDONALD: I thought it was an appropriate
20 time to not object to compound question.

21 MR. PHARRIS: Right.

22 A It's a complicated relationship. There are many points on
23 which the local parties are independent, and there are
24 points on which the local parties are restricted by state
25 party rules or bylaws or charter issues, so I would -- I

1 could go further, but I --

2 Q No, I just wanted to generally get --

3 A Yes.

4 Q -- to sort of create a tension between principles or
5 something like that.

6 A Correct.

7 Q Now, you mentioned earlier that the Democratic Party
8 doesn't have formal rules about membership. Does it have a
9 definition of what it takes to be a member of the
10 Democratic Party?

11 A I don't know that I know the answer to that. I believe it
12 does, but. . . .

13 Q From what you've said, I gather the party doesn't attempt
14 to maintain a list or roster of its members --

15 A Correct.

16 Q -- like some other private organizations would?

17 A We obviously keep a list of our donors.

18 Q Right. So given what you've just said, does the party have
19 any procedure for expelling a member or disavowing
20 membership?

21 A Not expelling. I don't know the answer. Let me just say
22 in my defense that there's lot of questions that I don't
23 know the answer to, and I turn to several people in my
24 daily work --

25 Q That's fine.

1 A -- one of who is David, and I can't ask him a question.

2 Q Well, this isn't a test on which you'll be graded for your
3 knowledge --

4 A Yes. Okay.

5 Q -- even in general studies. I'm just trying to get some
6 background knowledge --

7 A I understand. I understand.

8 Q -- just general.

9 Does the Democratic Party have an official platform,
10 the State Democratic Party?

11 A Yes.

12 Q How is that developed?

13 A Adopted every two years at the state convention.

14 Q So that's what the state convention does?

15 A Correct.

16 Q I gather there's also a national Democratic platform?

17 A I believe there is, yes.

18 Q Does the state platform have to be consistent with the
19 national platform?

20 A No.

21 Q What about local parties, do they have local platforms
22 also?

23 A County parties tend to adopt a platform. Most legislative
24 districts do not.

25 Q The county platforms, again, do they have to be consistent

1 with the state platform --

2 A No.

3 Q -- or are they own their own?

4 A I'm sorry. I'm supposed to wait until he's done.

5 Q The answer is no. I got it.

6 Are party members required to subscribe or agree with
7 the platform? And since you told me the definition of
8 party member is pretty vague, I gather the answer is no; is
9 that correct?

10 A Well, you have to restate the question since it's not --

11 Q Yes, I should make that a little clearer.

12 A Right.

13 Q Are party members required as a condition --

14 A We don't have party members.

15 Q With respect to the previous question about county
16 platforms, you said they don't have to be consistent with
17 the state platform; is that correct?

18 A Correct.

19 Q Can they actually contradict it and take an opposite
20 position?

21 A Yes.

22 Q Are candidates who are seeking the party's support for
23 public office, are they required to subscribe to or agree
24 with the platform?

25 A No.

1 Q Does the State Democratic Party nominate candidates for
2 public office under the current law?

3 A Yes.

4 Q Just partisan offices or also nonpartisan offices?

5 A Partisan.

6 Q I'll get back to that issue in a minute. I first want to
7 go back a little bit into history. Are you familiar with
8 the election system that was used in Washington from back
9 in the 1930's up to 2004 usually called the Blanket
10 Primary?

11 A I'm familiar with it.

12 Q And I gather, at least when you were at the state senate,
13 you were elected to office during the time that was in
14 force, right?

15 A Correct.

16 Q And, again, this is not meant to trip you up on legal
17 niceties, but describe generally how that system operated.

18 A You filed -- a candidate would file as a Democrat or a
19 Republican or a minor party candidate, and certainly for
20 the Democratic Party and the Republican Party, they would
21 participate in a primary election in September. And the
22 winner of the Democratic Primary would move to the ballot
23 as the Democratic nominee.

24 Q Did the voters who voted in the primary in those Blanket
25 Primary days, were they limited to voting for only

1 Democrats or only Republicans?

2 A No.

3 Q So an individual voter could vote for, say, a Democrat for
4 one office and a Republican for another office?

5 A Correct.

6 Q But under that system, as I understand it, for a particular
7 office, then the -- let's stick to major parties because I
8 know minor parties operate a little differently, but under
9 that particular system for a particular office the Democrat
10 with the most votes went on the ballot as the Democratic
11 candidate in November and the Republican with the most
12 votes went on the November ballot as the Republican
13 candidate?

14 A As a Republican nominee.

15 Q Excuse me. As a Republican nominee. If you know and have
16 any memory of it, did the Democratic Party nominate
17 candidates using any process separated or, you know,
18 separate from that state-operated Blanket Primary in those
19 days?

20 A Not that I'm aware of.

21 Q Now, as you probably know, the Blanket Primary was
22 eventually declared unconstitutional, and from 2004 through
23 2007, which would include part of the time you were a
24 member of the county council, the State used a form of
25 primary that was called the Montana Primary or sometimes

1 the Pick-A-Party Primary. Sometimes it's called an Open
2 Primary; that isn't very descriptive. Do you recall that
3 time?

4 A Yes.

5 Q How did that system work and how did it differ from the
6 Blanket Primary?

7 A First let me say that I became party chair in 2006, and the
8 Montana Primary was in place at the time --

9 Q Okay.

10 A -- and the debate about it, I was not in the Legislature at
11 the time, nor was I party chair, so -- could you ask the
12 question again?

13 Q I was just asking if you could just generally describe how
14 the Montana Primary worked and how it differed from the
15 Blanket Primary?

16 A As I recall, in the primary the voter had an opportunity to
17 vote one side of the ballot or the other, the Democratic
18 side or the Republican side. And, again, I can't recall or
19 speak to minor party voters at the time.

20 Q All right.

21 A But if you wanted your vote in the primary to count, you
22 had to stay on one column, so you had to vote only for
23 Democratic candidates or only for Republican candidates.

24 Q And that was in contrast to the way it worked under the
25 Blanket Primary?

1 A Correct.

2 Q So, then again, as I understand it, candidates would file
3 for -- as a Democrat or a Republican. Again, we'll just
4 set minor parties aside for purposes of this discussion.
5 And, again, the candidate in the primary who got the most
6 votes among the Democrats would be the Democratic
7 candidate?

8 A Nominee.

9 Q Or nominee. And likewise for the Republican Party; is that
10 correct?

11 A Correct.

12 Q Did the party during that period, if you remember, have any
13 process for nominating candidates other than just using
14 that state primary?

15 A Not that I'm aware of.

16 Q Now, as you undoubtedly know because it's the subject of
17 this case, beginning in 2008 the State began to use still a
18 different primary system, often called the Top Two Primary;
19 is that correct?

20 A (Witness nods head).

21 Q Can you generally describe --

22 MR. MCDONALD: Excuse me a second. Excuse me.

23 Did you give an audible answer to that or did you nod
24 your head?

25 A Yes, that's correct.

1 Q (By Mr. Pharris) That's correct. Okay.

2 What are the differences between the Top Two Primary
3 and the previous forms we've been discussing?

4 A By my understanding, and obviously this answer won't be
5 complete, but -- so you ask what are the differences?

6 Q And I'm only interested in your understanding of the
7 important differences.

8 A Okay. Under the -- the Top Two Primary is not a nominating
9 primary. It's a winnowing-out primary in which much --
10 operates much as a nonpartisan primary in which candidates
11 are on the ballot and the top two candidates go forward,
12 and the candidates are not then the nominee of the party
13 per se, that rather than stating -- filing as a Democrat or
14 as a Republican, one files as Prefers Democratic Party or
15 Prefers Republican Party. And so their relationship to the
16 party is different under the Top Two Primary as a candidate
17 than it is under either the Montana or the Blanket Primary.
18 And you have a possibility that two candidates could go
19 forward as Prefers Democratic Party or as Prefers
20 Republican Party, and -- whereas before you had to file as
21 a Democrat or a Republican, now you can file under a wide
22 series of names, sort of famously as a Republican or as a
23 GOP. Prefers Republican Party, Prefers Democratic Party, I
24 mean GOP Party, Prefers Democratic Party, Prefers
25 Independent Democratic Party, so. . . .

1 Q But an important difference is that, unlike either the
2 Blanket Primary or the Montana primary, as you indicated,
3 the top two candidates, even if they preferred the same
4 party, will advance to the general election?

5 A Correct.

6 Q The top two vote getters?

7 A Correct.

8 Q Again, as under the Blanket Primary voters are not limited
9 to voting for candidates of any one party; is that correct?

10 A It's certainly correct. I might question whether you have
11 a choice of voting for a candidate of a party. I'm not
12 sure that term is correct.

13 Q I should have been more clear.

14 A Prefers a Party.

15 Q Right.

16 A Right.

17 Q Let's clear that up a little bit. Under the Top Two
18 Primary, a voter chooses among all the people who have
19 filed for an office without any distinction as to what
20 party they've expressed a preference for, if any; is that
21 correct?

22 MR. MCDONALD: I'm going to object to the form
23 of the question as calling for speculation if you're asking
24 about the voter's understanding or the voter's intent. If
25 you're asking about something else --

1 Q (By Mr. Pharris) I'm sorry. I only meant to ask about
2 when the voter looks at a primary -- when the voter takes a
3 primary ballot, the voter could choose among all the
4 candidates who have filed for an office in the primary?

5 A Correct.

6 Q Under this system since 2008, does the Democratic Party
7 have a system of nominating candidates for public office
8 that is separate from the State-sponsored primary?

9 A Yes.

10 Q Describe that generally how it works.

11 A We -- the state party nominates candidates for partisan
12 office. We adopted rules to that effect prior to -- or
13 once the ballot measure passed, the Top Two, and we
14 actually adopted rules -- the Central Committee adopted
15 rules to deal with the Top Two Primary, and there was a
16 moment in time where I believe the King County Democrats
17 and Snohomish County Democrats implemented these rules, and
18 we could find the date for it, but in King County it was
19 Bob Ferguson and Carolyn Edmonds in a race for the King
20 County council.

21 So rules were adopted, and then while the case was in
22 court and the Montana Primary was still in use, those rules
23 sat on the table. They were adopted by the Central
24 Committee. When the Supreme Court made its ruling in, I'm
25 going to say, April of 2008, the rules now were germane,

1 and we implemented those rules in the 2008 election cycle.
2 And we revisited those rules in 2009 and made some changes
3 to those rules that we are now operating under in the 2010
4 cycle.

5 Q Okay.

6 A Do you want to repeat your question?

7 Q I may go on, but let's -- I want to -- let me mark this
8 for -- as an exhibit.

9 (EXHIBIT NO. 1 MARKED)

10 Q Mr. Pelz, I'm handing you what has been marked as
11 Exhibit 1, and I'll tell you this is an exhibit that was
12 given to us yesterday at the deposition of Todd Nichols,
13 who I gather is an official of your party, and I just
14 wanted to confirm that that is the rules you were just
15 talking about.

16 A That we -- these -- as I recall, these are the rules that
17 were adopted several years previously, and when the Supreme
18 Court ruling came out, I believe, I'm going to say, April
19 2008 -- you can correct me if you'd like -- we implemented
20 these rules, and then at the next possible Central
21 Committee meeting in September we revisited the rules, and
22 it is my recollection that the Central Committee
23 re-approved the same set of rules that they adopted earlier
24 -- previously.

25 Q And these rules are in place for the 2010 election that's

1 just starting?

2 A We -- okay, wait a second. Now I'm confused. Okay, so --
3 Never mind. This is -- yes, these are the -- these are
4 the -- we went through the 2008 cycle, and based on that
5 experience we revisited the rules, and these are the
6 revisions to those rules that we are currently operating
7 under.

8 Q I notice they're dated September of 2009 --

9 A Right.

10 Q -- so they were adopted -- there was -- there was an
11 election in 2009, though it wasn't -- there weren't very
12 many partisan offices at that time.

13 A Right.

14 Q But it's now in place for the 2010 cycle?

15 A Right, and the 2009 offices we conducted those under the
16 2008 rules.

17 Q Okay.

18 MR. AHEARNE: Could I interrupt and just ask a
19 clarification question?

20 Was Exhibit 1 to the Pelz deposition, is that the
21 exact same document as what I have as being Exhibit 1 to
22 the Nichols deposition?

23 THE WITNESS: It is, as I understand it.

24 MR. MCDONALD: There was a decision made
25 yesterday to give the witnesses their own set of exhibits

1 and then trial counsel can try to conform into a master
2 list.

3 MR. AHEARNE: And all I'm wondering, since I do
4 have a copy of Nichols Exhibit 1, I wanted to make sure
5 when you were handing the witness Pelz Exhibit 1 I had the
6 same thing in front of my face.

7 So I do, correct?

8 THE WITNESS: It is the same, yes.

9 Q (By Mr. Pharris) Let's start -- and I'm going to ask you
10 several questions about this process of nominating
11 candidates. Let's start with, say, a statewide partisan
12 office. How does the party nominate a candidate for a
13 statewide office?

14 A We nominate candidates for statewide offices at the
15 convention.

16 Q So, at the state convention?

17 A (Witness nods head).

18 Q Okay. And so they would nominate their candidates for all
19 the offices that were up for election that year?

20 A Right. Statewide offices.

21 Q Okay. And what's the timing of the state convention?

22 A I think it's June of even years.

23 Q Okay. So that would mean this process would occur, which
24 is logical, before the primary?

25 A Correct.

1 Q Okay. And now it's not unusual, as I understand it, for,
2 obviously, for several candidates to file for -- again,
3 we're talking about a statewide office -- including
4 potentially more than one who expresses a preference for
5 the Democratic Party. When you talk about nominating a
6 candidate, does this mean the party nominates one
7 candidate, or do they ever nominate more than one?

8 A Only one candidate.

9 Q And do they choose from among those candidates who
10 expressed a preference for the Democratic Party?

11 A I'm not sure I want to answer that question. I'm not sure
12 there's a -- I mean, I think generally speaking, yes,
13 but. . . .

14 Q I don't mean to --

15 A Okay.

16 Q -- tie you down beyond that, just sort of. . .

17 A Right.

18 Q Does the party have any process for revoking their endorse
19 -- I'm not going to use the word endorsement -- revoking a
20 nomination after they've made it?

21 A Let me clarify that.

22 Q Go ahead.

23 A Because it's after filing and before the primary, yes, it
24 would be somebody who has filed, and, therefore, by
25 definition, they would have stated a preference. So, yes,

1 we would choose from a person who had stated their -- that
2 prefers the Democratic Party.

3 Q I'm guessing then you certainly don't recall any case where
4 the party nominated someone who had expressed a preference
5 for a different party?

6 A I do not, no.

7 Q All right. Uh --

8 A I -- okay, go ahead.

9 Q Yeah. Does the party have any process for revoking its
10 nomination once they've made one?

11 A Not that I'm aware of.

12 Q Okay. Does the party nominate -- I think you answered this
13 question once before, but I want to be clear. Do they
14 every nominate candidates for nonpartisan offices such as
15 judges or Superintendent of Public Instruction?

16 A No.

17 Q Now, what about offices that are not statewide? One sort
18 of unique example would be candidates for US Representative
19 who don't -- are not elected by the entire state. Does the
20 statewide party nominate those candidates as well?

21 A Yes. The State Central Committee has the power to nominate
22 candidates for the US House, and, of course, the convention
23 also has that power.

24 Q Okay. So that's done basically at the state level.

25 What about legislative candidates for the Washington

1 State Legislature?

2 A I'm a little unclear of this distinction, but I'm going to
3 give you my best answer, which is that we did change this
4 between 2008 and 2009, and that in 2008 the local party
5 recommended to the state party a nominee, and I believe the
6 change in the rules was that we gave the local party the
7 power to nominate on behalf of the state party in 2009. In
8 both cases the local party, LD organizations, for
9 legislative races, county parties for county partisan races
10 had a nominating convention at which PCO's could vote, and
11 they nominated their candidate. And, again, this is the
12 nominee of the state party, not the nominee of the local
13 party that is being derived through this process.

14 Q So following up on that, even for races such as member of
15 the Legislature, either the House or the Senate, or for
16 county offices, this process you're describing is a process
17 that will end in a candidate being the nominee of the state
18 party?

19 A Correct.

20 Q Okay.

21 A And the state party rules dictate the procedures of the LD
22 or county parties when it comes to nominations.

23 Q Okay. And by LD, that's legislative district?

24 A Right.

25 Q The legislative district parties are involved in the

1 nomination of, I gather, candidates for the Legislature; is
2 that correct?

3 A Correct.

4 Q Do they also get involved in, like, county offices?

5 A No.

6 Q That would be done at the county party level?

7 A Yes.

8 Q Do -- what you're talking about is the term of nomination
9 referring to the state Democratic Party. Is there a
10 process -- or can county parties or legislative district
11 parties nominate separately and possibly nominate a
12 different candidate?

13 A Nomination is a term that's --

14 Q Okay.

15 A -- preserved for the state party.

16 Q So you --

17 A Local parties have endorsement procedures.

18 Q Okay, that's what I was about to get into. So under your
19 current rules, nomination is kind of a term of art, and it
20 relates specifically to the state party purposes?

21 A Correct.

22 Q Mr. Pelz, I'm going to hand you another exhibit, which I
23 should first have marked.

24 MR. PHARRIS: This one I have copies of, and
25 I'll give you a copy.

1 (EXHIBIT NO. 2 MARKED)

2 Q Mr. Pelz, I've already handed you a copy, but here's the
3 official copy of Exhibit 2, which is -- could you read what
4 the title of it is?

5 A Am I allowed time to read this document before we talk
6 about it?

7 Q Oh, of course you are. I'm not going to ask you very many
8 questions, but you're welcome to look at it.

9 A Can I ask my attorney if it's his recommendation that I
10 read through this before I answer questions?

11 Q I would recommend it myself, even if he doesn't, so go
12 ahead.

13 A It's going to take me five minutes to read it.

14 Q Sure.

15 MR. MCDONALD: I certainly concur in the
16 recommendation if I'm allowed to speak.

17 MR. PHARRIS: You are.

18 MR. WHITE: Hello.

19 MS. ZIPP: Shall we go off the record for five
20 minutes?

21 MR. WHITE: Okay. And what is Exhibit 2?

22 MR. PHARRIS: Exhibit 2 is a document called Top
23 Two Primary FAQ, and it says it is by Dwight Pelz, Chair,
24 WSDCC, April 2010. The witness is reading it before we ask
25 any more questions about it.

1 MR. WHITE: Okay. And Madam Court Reporter,
2 this is John White. I'm sorry for not introducing myself
3 before.

4 A (Witness perusing document) Brilliant.

5 MR. PHARRIS: Okay. I gather Mr. Pelz has
6 finished reading the document.

7 Q (By Mr. Pharris) My questions, Mr. Pelz, are all about the
8 last part of Exhibit 2 on page 3 which says Nominations
9 Versus Endorsements, and you started to get into this. I
10 think you indicated that the nomination process is a
11 process that is conducted for the state Democratic Party.
12 By contrast to that, what are endorsements as you
13 understand that term?

14 A I mean, first, because endorsements are -- rules for
15 endorsements are set by each local Democratic Party, their
16 goals may vary. But, generally speaking, they are to state
17 the preferred candidate by the local party --

18 Q By the local party.

19 A -- that they would communicate.

20 Q Again, just to clarify, the state party does not have a
21 separate process of endorsement different from nomination;
22 is that correct?

23 A Correct.

24 Q Okay. So, if I can sort of understand it, the key
25 difference between the two terms is that the term

1 nomination is reserved for the state party while local
2 parties can engage in a process called endorsement?

3 A Correct.

4 Q And that's why, I think, as you indicate at the end, the
5 very last sentence of Exhibit 2, it is possible that a
6 local party might nominate Candidate A and endorse
7 Candidate B, but -- or at least -- excuse me. The final
8 sentence says that a local might nominate Candidate A and
9 endorse Candidate B. So could you explain how that can
10 happen?

11 A Well, first of all, this document was not written for, you
12 know, legal purposes.

13 Q (By Mr. Pharris) Right. It's not an official party
14 document.

15 A And it was written to sort of answer confusion within the
16 party about what nominations and endorsements were, and
17 also because it's an ongoing point of confusion in the
18 party, why are we doing this nomination process that we
19 hadn't previously done?

20 So if I were to -- I could rewrite that last sentence
21 to say, In fact, the local party may recommend the
22 nomination of Candidate A and endorse Candidate B because
23 the local party doesn't nominate; the state party
24 nominates.

25 Q Okay, that's helpful. But, in essence, what it may mean

1 then is that Candidate A may be the nominated candidate of
2 the state party, but a local party may choose to endorse
3 Candidate B?

4 A And, for example, many local parties allow any dues-paying
5 Democrat to participate in endorsements, so your field of
6 electors is different than PCO's, so that might be one
7 reason why 15 PCO's might nominate a different candidate
8 than 150 paid members would choose to endorse.

9 Q Okay, thank you. Let's assume that this nomination process
10 has occurred and we're going into a Top Two Primary such as
11 the one that's going on right now. How does the State
12 party convey the information about which candidates they
13 have nominated?

14 A I believe we have that list on our Web site.

15 Q Okay. So it's -- and it's publicly available?

16 A Correct.

17 Q Okay. Does the fact of nomination affect whether the party
18 contributes financially to a candidate's campaign?

19 A There is not is not a strict relationship on that question.

20 Q Okay.

21 A It is -- we make available the voter file to candidates
22 that file as Democrats, unless we have a reason to believe
23 that this person really is not a Democrat. So, generally
24 speaking, in the wide preponderance of instances we will
25 make available the voter file to the nominee and to another

1 person who's running as Prefer Democrat in the same race.

2 It's fairly inconceivable that the state party would donate
3 funds to a candidate who is not the nominee of the party
4 when there is a nominee, other than the nominee of the
5 party.

6 Q In any particular race -- and I think your last answer
7 implies, but I want to clarify this. In any particular
8 race does the party sometimes provide support for more than
9 one candidate rather than only a single candidate in the
10 primary? And I realize the word "support" is slippery.

11 A Yeah. It's very -- say it again. To provide support for
12 more than one candidate? Again, the voter file is a form
13 of support, so we do provide that level of support. We
14 don't expend a lot of funds in the primary phase.

15 Q Right.

16 A If we are in a general election and have two candidates on
17 the ballot that prefer the Democratic Party, we will
18 probably at that point expend more resources on behalf of
19 the nominated candidate.

20 Q Okay. That's a good transition because my next thing were
21 to ask about the general election. Under the Top Two
22 Primary, of course, the two top vote-getters, regardless of
23 party preference, advance to the November general election.
24 If the candidate who's -- if the candidate who's been
25 nominated by the Democratic Party is one of those two and

1 advances to the general election, is that candidate
2 automatically still the party's nominee?

3 A Yes.

4 Q Okay. There's no separate process for revisiting that
5 issue of nomination?

6 A There is not.

7 Q If the Democratic Party's nominee for the office is not one
8 of the two top vote-getters, does not advance to the
9 general election, does the party nominate another candidate
10 at that point?

11 A We will seek to do that.

12 Q Okay.

13 A And let me add that through the -- during the process of
14 fulfilling the vacancy of Representative Grant, the
15 question arose of whether if -- if Representative Grant had
16 not been the nominee of the party, there was conjecture
17 that the PCO's would not have the power to pick the
18 replacement and that the county commissioners would have
19 been free to choose someone from any party without
20 reference to the PCO's and the traditional process of
21 picking the top three. And so given that, we are -- it is
22 our goal to have a nominee on the general election ballot
23 because we think there's some legal question about whether
24 we would have the right to fill a vacancy if we did not.

25 Q So, following up on that, if one and only one of the

1 candidates advancing to the general election has expressed
2 a preference for the Democratic Party, but wasn't
3 previously the nominee of the Democratic Party, is it fair
4 to say that the party would typically then nominate that
5 candidate?

6 A That would be our goal.

7 Q Okay.

8 A Now, let me say that there are candidates out there that if
9 our nominated candidate didn't move forward and a candidate
10 that was not our nomi -- moved forward, we may choose not
11 to nominate that person if we did not feel that person
12 represented the party, and I think there's a precedent for
13 that in 2008 where we did not nominate -- there are
14 times -- there were times in 2008 where the candidate --
15 one candidate was on the general election and said prefer
16 Democratic Party, and we chose not to nominate that person.

17 Q Okay. Do you recalls any specifics --

18 A I think Glen Stockwell in the ninth -- in the seventh LD.

19 Q Okay. That's seventh legislative district?

20 A Seventh legislative district, right.

21 Q If both candidates for an office advancing to the general
22 election have expressed a preference for the Democratic
23 Party -- and you've touched on this issue before -- what
24 does the state party do with respect to the general
25 election campaign?

1 A Well, again, one of those two would almost certainly be our
2 nominee.

3 Q Okay.

4 A But what's your question?

5 Q Well, that is true. Let's say one of them is your nominee.
6 I think what you said -- and I don't want to put words in
7 your mouth, but something to the effect of you're likely to
8 give somewhat more support to that nominated candidate than
9 to the other one?

10 A Yes.

11 Q Okay. What does the party do if neither candidate
12 advancing to the general election has expressed a
13 preference for the Democratic Party? Do they get involved
14 in that campaign at all?

15 A The state party would not.

16 Q Okay. But when you say the state party would not, do you
17 have any knowledge as to whether the local party might?

18 A I think it's conceivable for a local party to endorse sort
19 of a lesser evil. We don't encourage it.

20 Q You don't encourage and the state party doesn't do it even?

21 A And the state party doesn't do it.

22 Q Again with respect to the years since 2008, do you have any
23 knowledge of a candidate for office in this state falsely
24 claiming to be the nominee of the Democratic Party when
25 they weren't?

1 A I have a recollection of maybe a scattered instance or two
2 but nothing very serious.

3 Q Nothing specific?

4 A No.

5 Q Do you recall that the party took any action against such
6 candidate?

7 A If we heard that a person was using their association with
8 the party inappropriately, we would seek to respond to it.

9 Q Again with respect to the years of the Top Two Primary, do
10 you have any knowledge of a candidate who, when filing,
11 claimed to have a preference for the Democratic Party,
12 which the party regarded as a false statement? So this is
13 not just claiming to be the nominee, but claiming to have a
14 preference.

15 A Well, we wouldn't -- we wouldn't challenge somebody for
16 claiming to have a preference, but we might challenge
17 whether we felt that person in fact was a Democratic,

18 Q Okay. When you say you would challenge, what form would
19 that challenge take?

20 A It would certain -- internal discussion, for one thing, and
21 certainly would take the form of declining to nominate that
22 person.

23 Q Okay.

24 A And in some cases it might involve going to the press and
25 disavowing that person as representing the Democratic

1 Party.

2 Q Do you recall any case in which this actually happened?

3 A I think in the case of Glen Stockwell in 7th Legislative
4 District in 2008.

5 Q So I gather that Mr. Stockwell in 2008 filed and stated a
6 preference for the Democratic Party and the party in effect
7 challenged that statement as to whether he was really a
8 Democrat?

9 A We disavowed him.

10 Q Disavowed. All right.

11 A And that could happen again this year in some of races that
12 are looming out there.

13 Q Now, much of this, maybe part of our discussion, but in
14 your experience, has the Democratic Party's role in
15 elections changed since the adoption of the Top Two
16 Primary?

17 A Yes.

18 Q How?

19 A We have to nominate candidates.

20 Q And you've described that in fair detail. Has it changed
21 in any other way that you're aware of?

22 A Tell me -- has what changed in any other way?

23 Q The Democratic Party's role in elections.

24 A Role. Well, we certainly are spending a great deal of time
25 and effort internally clarifying what the nomination

1 process is and informing the members and the public what
2 the sort of revised role of the party is under the Top Two
3 Primary. So we're spending a lot of time, you know,
4 correcting reporters when they -- in the way they talk
5 about elections. So we're devoting a great deal of time
6 and attention internally and externally to clarify what our
7 relationship is with these candidates.

8 Q To the extent the party's role is different from what it
9 used to be, in your personal opinion, is this a change for
10 the better or for the worse --

11 A For the worse.

12 Q -- or neither one? For the worse. Why would you say that?

13 A Because under both the Open Primary and the Montana
14 Primary, the voters nominated the candidate for the party,
15 and now we have an internal process by which the party
16 nominates internally. And I think it's healthier for us to
17 look outward and ask the voters to choose our nominee than
18 to look inward and ask ourselves to choose our nominee.

19 Q In your opinion, does the state's implementation of the Top
20 Two Primary result in voter confusion as to which
21 candidates are nominated by the party?

22 A Yes.

23 Q Could you explain why you think that?

24 A Say the question -- the State's implementation?

25 Q Yeah, I did ask with respect to the State's implementation

1 of the Top Two Primary.

2 A Well, I mean, I think that there's elements of the law that
3 create confusion and I think there's elements of the
4 implementation that create confusion, so the
5 implementation, generally speaking, would be the rule
6 making that accompanied the initiative, and I think that
7 the rule making has created confusion.

8 Q Could you describe what you mean by that?

9 A Well, you know, one of my -- obviously, we went to court
10 over this question about this "Prefers GOP Party," that
11 allowing a candidate to run not just as either Prefers
12 Republican Party or Prefers GOP Party and then to state
13 that -- again, I think that created a great deal of
14 confusion, and there's obviously very strong -- there was
15 polling information that was conducted that showed a
16 significant percentage of people didn't know what GOP
17 meant. There was some sort of anecdotal stories that
18 people don't know what GOP meant, but there's the very real
19 fact that I think something like 25 candidates for the
20 Legislature in '08 ran prefers GOP.

21 And there's the Dino Rossi story, of course. He ran
22 as a, you know, as a Republican for the state senate. He
23 ran for Governor as a Republican in '04. He ran Prefers
24 GOP in '08. He at a press conference this year said he was
25 going to run again as GOP. A poll came out showing that

1 Republican polled better than GOP, so he preferred to run
2 as Prefers Republican Party. So he's clearly shopping for
3 a title which will benefit him, which means that he
4 recognizes that voters are confused about these terms and
5 he's seeking a position that benefits himself.

6 And it's particularly vexing to me that if, in fact,
7 there is a vacancy, if a candidate were elected to the
8 Legislature as Prefers GOP and then were to pass away, that
9 the Republican Party would then have the ability to fill
10 that vacancy with their PCO's when the person hasn't even
11 run as a Republican. So I think that part of the rule
12 making is deplorable, frankly.

13 Q Any other part of the rule making that you would also point
14 to as causing problems?

15 A Well, I think this whole thing about "prefers" is --
16 creates confusion because I think people, you know -- you
17 vote for Warren Magnuson because he's a Democrat and now
18 someone's not a Democrat; they prefer the Democratic Party.
19 So I think that whole term of preference creates confusion.

20 Q Okay. Anything else -- again, referring to the rules or
21 the details of the way the State has implemented the Top
22 Two Primary that you think causes problems?

23 A I don't have any specifics, but I wouldn't limit myself to
24 what I've addressed.

25 Q Right, right. How could the State change its

1 implementation to reduce or eliminate the problem you've
2 described? And primarily you've talked about that issue of
3 Republican versus GOP.

4 A Well, I believe that people are better served if you file
5 as a Democrat or you file as a Republican and you appear on
6 the ballot as a Democrat or a Republican and that you don't
7 speak to your preference and that you declare your
8 association with the party and that you have to -- you
9 don't get to shop around for the most advantageous term to
10 use that year.

11 Q But, particularly I gather, you object to this use of
12 alternative words that most people would agree really refer
13 to the same party, such as Republican and GOP? There might
14 be some equivalent for the Democrat.

15 A Or --

16 MR. MCDONALD: Excuse me. I'm going to object
17 to the compound question there.

18 MR. PHARRIS: Okay. Well, I'm trying to break
19 out the nature of your objection.

20 MR. MCDONALD: May I be more specific?

21 MR. PHARRIS: All right, yeah.

22 MR. MCDONALD: You're effectively asking him to
23 agree with your statement that most people would agree that
24 GOP and Republican are the same, and I'm not sure he would
25 agree so why don't you break that out?

1 MR. PHARRIS: Right.

2 Q (By Mr. Pharris) Am I correct that in your previous
3 testimony you objected to the fact that people can express
4 a preference for a GOP or Republican --

5 A Candidate.

6 Q -- candidates? Candidates, right. Candidates, right.

7 Excuse me. And can I set aside for a moment your objection
8 to the use of "preference"?

9 A (Witness nods head).

10 Q Which I understand and which is actually in the statute.

11 But when -- let me rephrase this a little. Could the State
12 improve the situation in your mind by changing the rules so
13 that candidates would be unable to, say, choose between
14 Republican and GOP?

15 A Yes, I think that would be an improvement.

16 Q Okay.

17 A And I would tie it to the statute -- to the process of
18 filling vacancies that the Republican Party fills -- the
19 PCO's play a role in filling vacancies of the person who
20 filed as a Republican, Prefers Republican Party, but not
21 someone who's filed as Prefers GOP.

22 Q Right. Has the Democratic Party experienced any equivalent
23 situation with people who file using a preference that is
24 some form of Democratic Party, but not just simply
25 Democratic?

1 A Yes.

2 Q How do you -- how have you handled that?

3 A There's a candidate -- a member of the Legislature that's
4 filed as prefers -- or as Prefers Independent Democratic
5 Party. And I believe we've chosen him. I know we've
6 chosen him to be the nominee of the party, but Democrats
7 have expressed displeasure over that choice.

8 Q Okay. I'm going to move on to the nomination of Precinct
9 Committee Officers for a few questions. Are you familiar
10 with the way PCO's are selected? I think you referred to
11 it earlier in your testimony.

12 A Under the Top Two Primary?

13 Q Yeah, under the current primary.

14 A Yes, I am.

15 Q How does that work?

16 A To the best of my recollection, a person -- well, I think
17 that question of how it works is not necessarily a proper
18 question because there's a great deal of disagreement about
19 how it works right now. So, you know, you could ask the
20 question of how the state party feels it works or how
21 Secretary Reed feels it works, or how local county auditors
22 feel it works, but all of those parties are implementing
23 that in a different fashion at this point, is my
24 understanding.

25 Q Okay. What I was really interested in is the mechanics of

1 how the election for Precinct Committee Officers is
2 conducted, and maybe that is an area in which you feel
3 there's controversy.

4 A Right. So let me -- under the -- we are -- the Democratic
5 Party doesn't support the Top Two Primary, but the way that
6 we would seek to have PCO's elected in 2008 that wasn't
7 always met was that a candidate files for PCO and -- I
8 forget whether you have to file as prefers Democratic Party
9 or if you just file as a Democrat for PCO, so I don't
10 remember the answer to that, but that you have to get a
11 certain threshold of votes within your precinct in order to
12 win that election so that we have some assurance that you
13 are, in fact, a Democrat because the PCO is the building
14 block of our reorganization. And we choose our PCO's and
15 then we choose our State Central Committee members, and
16 then we choose our chair.

17 And so we have a threshold provision which is in
18 statute and which is also recognized under the party rules,
19 I believe. And the threshold is that you have to get 10
20 percent of the number of votes of the top vote-getter in
21 that precinct, and for the most part that would have been
22 Governor Gregoire, for example, in 2008. I don't know if
23 it could have been the president, actually, but I think it
24 was a state office. And so you had to get 10 percent of
25 the number of votes for a Precinct Committee Officer that

1 Governor Gregoire got in your precinct. Otherwise you were
2 not chosen as the Precinct Committee Officer.

3 The problem was that many auditors did not recognize
4 this statute any longer or chose to ignore the statute and
5 they sent notices to people that had gotten one or two
6 write-in votes for Precinct Committee Officer and created a
7 great deal of confusion inside the party because we chose
8 to go back and implement the statute as we understood it
9 and the party policy as we understood it. And we
10 recomputed the math in many precincts across the state and
11 determined that there was a set of Precinct Committee
12 Officers that hadn't met the threshold, and we sent them
13 notices saying that they were not a Precinct Committee
14 Officer in our view, and some of them were unhappy because
15 they had been told by their auditor that they were a
16 Precinct Committee Officer. Many of them were relieved to
17 get the letter from us because we got a lot of stories
18 about they didn't want to be the Precinct Committee
19 Officer. Their brother-in-law had written that in. A
20 person might have -- a person received a notice from the
21 auditor that they were now a Democratic Precinct Committee
22 Officer, and they would communicate back to me that, in
23 fact, they considered themselves Republican and somebody
24 had written their name in as a joke, so. . . .

25 Q Okay. Let's go back to the Montana Primary. How were

1 Precinct Committee Officers chosen then and how did it
2 differ from the way it's done now?

3 A Well, in the Montana Primary for the first time we sort of
4 had a double-check, and the first being the threshold which
5 was in place during the Blanket Primary. But we had an
6 even stronger check through the Montana Primary. The PCO
7 election, my understanding, was as part of the compromise
8 that created the Montana Primary was moved from the general
9 election back to the primary election for the very purpose
10 that at the primary election now you had to vote one side
11 of the ballot or the other, and that gave us obviously a
12 fairly reasonable assurance that if you chose to vote on
13 the Democratic side that you were affiliating yourself with
14 the Democratic Party, and then, therefore, it was
15 appropriate for you to vote in the precinct committee
16 election, so we had a double-check at that point, we felt.

17 Q Okay. But that check disappeared under the Top Two?

18 A Correct.

19 MR. PHARRIS: Can we take a break?

20 MR. MCDONALD: (Nods head).

21 (Recessed at 10:44 a.m.)

22 (Reconvened at 10:51 a.m.)

23 MR. PHARRIS: Mr. Grover, Mr. White, are you
24 still there, still awake?

25 MR. WHITE: Yes to both questions for John

1 White.

2 MR. PHARRIS: Good.

3 MR. GROVER: And the same for Orrin Grover.

4 MR. PHARRIS: All right, we're going to resume.

5 Q (By Mr. Pharris) I have just a few more questions,
6 Mr. Pelz. You mentioned -- in discussing your duties as
7 the chair, I think you indicated you -- you're kind of the
8 public voice of the party; is that correct?

9 A Correct.

10 Q Any other -- would you just generally describe how you
11 perform that role, that is, of interacting with the general
12 public, the press, other people as the chair?

13 A Sometimes I initiate contact with the press; often the
14 press initiates contact with me. Sometimes I go out and
15 seek public speaking opportunities; sometimes they come
16 seek me. I speak at our Central Committee meetings, and at
17 the convention I address the body.

18 Q Do you have occasion to discuss with the press questions
19 such as we've discussed earlier as to whether a candidate
20 who has expressed a preference for a party is the nominee
21 of that party?

22 A Yes.

23 Q Okay. What -- who usually initiates those discussions?
24 What sort of discussions are they?

25 A It could go both ways. I mean, normally the reporters will

1 admit confusion about how the Top Two Primary works and
2 what the meaning of our nomination is. And so they will
3 often raise it with me, and I will try to walk them
4 through, but at times I might call them up and correct them
5 on something that they've written about that.

6 Q Okay. You indicated in response to a question earlier --
7 strike that. I'm not going to go that direction.

8 You indicated earlier that you weren't aware of any
9 procedure for expelling a member, particularly in light of
10 the fact that there are no fixed rules on who is a member
11 of the Democratic Party; is that correct?

12 A Correct.

13 Q But you also indicated that occasionally there have been, I
14 think you described as, disavowing?

15 A Correct.

16 Q Is there someone besides yourself who would know more about
17 when that had occurred?

18 A Yes, there is someone.

19 Q Yes, there is. And who would that be?

20 A Well, first of all, we have some sort of -- we have sort of
21 a set of historians within the party that -- whose
22 recollect of these instances -- and I could give you three
23 names, and that would be David McDonald and Jeff Smith and
24 Paul Berendt.

25 Q Okay.

1 A And. Tell me what the question was. Who --

2 Q Who would know about procedures for disavowing a candidate?

3 A I often turn to the parliamentarian of the party who is
4 David McDonald or to Jaxon Ravens, our executive director,
5 for clarification on our bylaws and charter because it's --
6 it's not something that I remember easily. It's not a
7 skill I have. I would be a terrible lawyer.

8 Q You mentioned earlier that the party does not require
9 candidates to subscribe to the platform; is that correct?

10 A Correct.

11 Q Does support for the platform play a part in the party's
12 decision which candidate it nominates?

13 A It might.

14 Q It might. Okay. What other factors would affect that
15 process?

16 A A myriad. When a legislative district organization -- the
17 PCO's legislative district organization meet to consider
18 the nomination of a candidate there are many factors they
19 could be.

20 Q What would be examples, though?

21 A Well, it could range from questions of policy; if it's an
22 incumbent, maybe just votes that they have or haven't
23 taken. Personalities always enter in; whether they
24 received a contribution might enter in. A myriad of
25 factors, I think, influence a PCO's decision on who to

1 support for nomination.

2 Q So support for policy might be part of it, but wouldn't be
3 the only part?

4 A Right. Correct.

5 MR. PHARRIS: I don't have any more questions.
6 Thank you, Mr. Pelz.

7 THE WITNESS: Very good.

8 MR. PHARRIS: Got anything?

9 MR. AHEARNE: Yes.

10 EXAMINATION

11 BY MR. AHEARNE:

12 Q I'm going to be scattered all over the place, because I'm
13 mostly just following up on some of the pieces of the
14 State's questions.

15 First, Mr. Pharris had asked you some questions about
16 the county platforms. Do you recall that generally?

17 A Um-hmm.

18 Q And is there a process that the state party has for
19 approving county platforms?

20 A No.

21 Q Is there any process that the state party has for
22 recommending changes or making changes to county platforms?

23 A No.

24 Q Is there a process the state party has for reviewing the
25 county platforms?

1 A No.

2 Q And in that same time when you were talking about the
3 county platforms with Mr. Pharris you made a statement that
4 I think you said "We don't have party members."

5 A We don't have membership in the party.

6 Q You don't have membership in the state Democratic Party?

7 A Right.

8 Q When you were talking about county -- there are separate
9 county platforms, each state Democratic Party has their own
10 platform as well, correct?

11 A I can't speak to the other states.

12 Q Do you have any knowledge one way or the other if the state
13 party platforms in states other than Washington are
14 consistent with Washington's Democratic state party
15 platform?

16 A No, I have no knowledge.

17 Q If I can ask you to look at Exhibit 1 to your deposition,
18 please, which, as I understand it, is the same as Exhibit 1
19 to Mr. Nichols' deposition yesterday. It's a document
20 entitled Rules for the Selection of Democratic and Nominees
21 for Public Office. Do you have that in front of you?

22 A Yes.

23 Q And is this the Democrats' candidates' selection and
24 nomination process today?

25 A Yes.

1 Q If I can ask you to look at the second page, there's a
2 second under Roman numeral V, so capital V, where it starts
3 Alternative Means of Selection. Do you see that?

4 A Yes.

5 Q Is that process the one that's used by the Washington State
6 Democratic Central Committee to select candidates and
7 nominees for public office in the 2010 election?

8 A Yes.

9 Q And if this process is not changed, which is Exhibit 1,
10 would this also be the process used in future elections?

11 A If it is not changed, yes.

12 Q There were some discussion about the 2008 and 2009
13 elections. Did the state Democratic Party have a process
14 for selecting candidates and nominees for public office in
15 those two election years as well?

16 A First of all, "selecting" is not a term of art.

17 Q Okay.

18 A So could you restate your question?

19 Q Sure. Sure. As I understood your testimony, this
20 Exhibit 1, and in particular the Alternative Means of
21 Selection is the process that's used by the Washington
22 State Democratic Central Committee to select candidates --

23 A Nominees.

24 Q -- and nominees for public office?

25 A Mr. Ahearne, I can't accept the word "select" so you're

1 going to have to rephrase your question.

2 Q I'll tell you where I get the word "select." I'm looking
3 at Alternative Means of Selection where it says "where
4 state law does not provide for Democratic Primary that
5 complies with these rules, candidates and nominees shall be
6 selected in accordance with the following rules. That's
7 where I get the word "select." From Exhibit 1.

8 A Okay. So what's your question?

9 Q My question is: In 2008 and 2009 did the state Democratic
10 Party select candidates and nominees for public office?
11 Yes or no?

12 A Yes.

13 Q And was it pursuant to rules that were similar to, not
14 exactly the same, but similar to those in Exhibit 1?

15 A Yes.

16 Q And the candidate and nominee selection process, is that
17 outside of then the public voting in the Top Two system?

18 A Yes.

19 Q If I can ask you to look at Exhibit 2, please --

20 A (Witness complying).

21 Q -- the FAQ. Is that Frequently Asked Questions?

22 A Yes.

23 Q Is this something that you wrote?

24 A Yes.

25 Q And who did you write this for? What was your audience?

1 A This was, you know, internal to the party and external to
2 the party, but there were people in the party that were
3 confused about how nominations occurred, and there were
4 also people in the party that sort of resented them, didn't
5 understand why we were nominating or resented why we were
6 nominating, and so I was trying to lay out the rationale.

7 Q What was your just general purpose for writing Exhibit 2?

8 A To educate Democrats why and how we nominate candidates.

9 Q And the current way of nominating candidates is Exhibit 1?

10 A Correct.

11 Q And you had mentioned in response to Mr. Pharris's
12 questions that this was not written for legal purposes,
13 something like that?

14 A Correct.

15 Q But is everything that you wrote in this true, at least to
16 your knowledge, in Exhibit 2?

17 A Well, are "true" and "accurate" the same term?

18 Q Are they to you? Could something -- I'll ask you a
19 question. As the chair of the Democratic State Party,
20 is -- can something be true if it's inaccurate?

21 A The --

22 MR. GROVER: Object to rhetorical question.

23 A Yeah, I -- I don't know that --

24 Q (By Mr. Ahearne) The reason for my question is you asked
25 me if "true" and "accurate" mean the same thing, so I'm

1 asking you, to you can something be true and inaccurate?

2 A Well -- all right, when I write a document at the same time
3 that we have a legal proceeding going on, I don't
4 necessarily check my document with my attorney. Okay? And
5 when I write a document, I write a lot of documents and I
6 make a lot of speeches, and so I -- I could go through here
7 and tell you if there's any things that I've stated in here
8 that I might have some clarification on as I did on that
9 last sentence. So, for example, that last sentence, "Local
10 party might nominate candidate." On the last sentence of
11 the document I pointed out earlier that it wasn't
12 completely accurate. It's probably true, but not accurate.
13 And so there may be other cases, phrases within this
14 document, that aren't entirely accurate.

15 Q When you were writing Exhibit 2, your intent was to say
16 things that were true?

17 A Correct, my intent was to clarify and educate the Democrats
18 on the process.

19 Q All right. And in Exhibit 1 if I can ask you to look at
20 that one more time, on the last page under Roman numeral VI
21 under Threshold, Demonstration of Party Support Required,
22 do you see that?

23 A Um-hmm.

24 Q And under A it says "The voter must publicly attest his or
25 her support of the Democratic Party and his or her desire

1 to be publicly known as a Democrat." Do you see that?

2 A Yes.

3 Q What's your understanding of what it means to attest
4 support of the Democratic Party?

5 A I think it can take many forms.

6 Q What are those forms?

7 A A person can say, "I attest my support for the Democratic
8 Party." You know, "I support the Democratic Party, I
9 support the principles of the Democratic Party. I consider
10 myself a Democrat. I think the phrase "attest his or
11 support of the Democratic Party" is somewhat general and
12 probably on purpose.

13 Q And to you as chair of the Democratic State Party, what
14 does it mean to support the Democratic Party?

15 A You know, I think it's -- a person makes a statement that
16 they're in support of the Democratic Party and, you know,
17 generally speaking, we're not going to contest that unless
18 there's some sort of historical evidence that the person
19 has operated in a different fashion.

20 Q And what I'm trying to get at is what does it mean to
21 support the Democratic Party? Is that like the views and
22 the platform of the Democratic Party? Is it just whoever
23 the nominees are? What does it mean in your mind to
24 support the Democratic Party?

25 A Well, the phrase is generally stated and probably on

1 purpose generally stated. So one could attest their
2 support for the Democratic Party in many ways. They could
3 say that they agree with the platform. They could say they
4 agree with the principles of the Democratic Party. They
5 could say, "I've been a Democrat since Franklin Roosevelt.
6 I've always voted Democrat." They could say, "I'm now a
7 Democrat because I think Barack Obama is doing a great
8 job." There's many ways in which a person could state
9 their support for the Democratic Party.

10 Q Add you mentioned the principles of the Democratic Party
11 and I note that in the Complaint that you filed you refer
12 to the views of the Democratic Party, the Democratic
13 Party's positions on important issues of the day, the
14 Democratic Party's message. Could you tell me what the
15 Democratic Party's message or views or principles are? Is
16 there a place I would look to to find those?

17 A There are many places you could look to to find those. I
18 mean, you could look at our platform, you could look at the
19 national platform, you could look at the speeches of the
20 President, you could look at the speeches of the Governor.
21 You could look at things that I've written.

22 Q So if I as a person wanted to figure out what the
23 Democratic Party's message, views and positions on
24 important issues of the day were, I would look at the party
25 platform, speeches of party leaders. Anything else come to

1 your mind?

2 A Not specifically, but that's a pretty broad range.

3 Q Okay. Mr. Pharris had asked you some questions about your
4 being selected as chairman of the Washington State
5 Democratic Central Committee. Does the Washington State
6 Democratic Central Committee have officers other than a
7 chairman?

8 A There's a vice chair, a secretary, and a treasurer, and
9 then there are members of the Executive Committee that
10 aren't really considered officers. There's four officers
11 of the party.

12 Q And are each of those four officers selected in a similar
13 manner to the way you were selected?

14 A Correct, same day.

15 Q And you mentioned the Executive Committee or sometimes you
16 mentioned Executive Board.

17 A Right.

18 Q What is that?

19 A The Executive Board is -- consists of the four officers,
20 the four members of the DNC, Democratic National Committee.
21 So we elect two men and two women as members of the DNC, so
22 four officers, four DNC members, a representative of each
23 congressional district, so that's nine chosen by Central
24 Committee members from that congressional district at the
25 reorg meeting, so that's 17. We have a representative of

1 the Women's Federation, a Affirmative Action -- I believe
2 it's the chair of the Affirmative Action Committee sits on
3 the Executive Board. And I think that's it.

4 Q And the process that's gone through for selecting the
5 officers of the state party and the Executive Board, who
6 pays the cost of that?

7 A Central Committee.

8 Q Now, how do the PCO's or Precinct Committee Officers relate
9 to your organization of the state party?

10 A Well, again, they initiate the process by which the state
11 party is formed or reformed every two years, so the elected
12 PCO's choose a man and woman to be Central Committee
13 members from either an LD organization or a county party,
14 and those Central Committee members then go to the Central
15 Committee meeting in the month of January in the odd year
16 and elect a chair.

17 Q Are all of these PCO's, both the elected PCO's and the
18 appointed PCO's, are those internal members or -- I don't
19 want to use the word "members" -- participants in the state
20 Democratic Party?

21 A Well, first of all, there are moments -- there are powers
22 reserved for elected PCO's, and there are powers that are
23 performed by both elected and appointed PCO's. And the
24 elected PCO's are the ones who conduct the reorganization
25 every two years.

1 Q Okay.

2 A I believe that appointed PCO's participate in filling
3 vacancies. I'm quite sure of it. But -- and what was your
4 question: Are PCO's --

5 Q Well, now that you've explained to me the difference
6 between the elected and the appointed, let me limit my
7 question to just the elected PCO's.

8 A Okay.

9 Q Are elected PCO's officers of the state?

10 A Yes, they are.

11 Q Are they state officials at all?

12 A They're elected officials.

13 Q But are they state officials or are they internal
14 Democratic State Party officials?

15 A Well, they're --

16 MR. MCDONALD: Excuse me. I'm going to object
17 to the form of the question. It's unnecessarily limiting
18 as to state -- when you say state official, that's a bit
19 ambiguous as to whether you mean state party official --

20 MR. AHEARNE: I'll rephrase it.

21 MR. MCDONALD: -- or public official versus --

22 MR. AHEARNE: I'll rephrase it.

23 MR. MCDONALD: -- or however you want to do it.

24 MR. AHEARNE: I'll rephrase it.

25 MR. MCDONALD: Yeah.

1 Q (By Mr. Ahearne) Are the elected PCO's, do they hold state
2 public office?

3 A I mean, I believe the answer is yes.

4 MR. WHITE: This is John White. I'll object to
5 the form of question and object, it calls for a legal
6 conclusion.

7 A I will say that the elected PCO position is created by
8 state law. Now, I don't know whether they're a state
9 elected official; I'm not sure what that term of art means
10 specifically.

11 Q (By Mr. Ahearne) All right. And the PCO -- electing
12 PCO's, that's a process that exists today, correct?

13 A Within the state law, correct.

14 Q And was the process for electing state -- strike that.

15 Was the process for electing PCO's part of Initiative
16 872?

17 A I don't know.

18 Q And currently who pays for the election process of
19 selecting the elected PCO's?

20 A The -- the government. I don't know if it's the State or
21 the County.

22 Q And when you say the government, you mean the taxpayers are
23 paying for that, correct?

24 A Well, the government.

25 Q Where does the government gets its money?

1 A From taxpayers.

2 Q In your Complaint, you state that Initiative 872 is
3 unconstitutional. Could you summarize for me why you
4 believe Initiative 872 is unconstitutional?

5 A When you say I stated, do you mean the Democratic Party or
6 Dwight Pelz?

7 Q Well, let's go back a few steps. Okay, you are a
8 plaintiff. You Dwight Pelz are a plaintiff in this case,
9 correct?

10 A That's my question. That's my question. I'm asking for
11 clarification.

12 Q Okay, I'm sorry. I mean you plaintiff, Dwight Pelz.

13 A Okay. All right. So -- ask your question again.

14 Q Sure.

15 A Do I believe that -- do I believe personally that the
16 measure is unconstitutional?

17 Q Initiative 872 is unconstitutional?

18 A Yes, I do.

19 Q Why?

20 A I believe that it restricts the Democratic Party's freedom
21 of association and our ability to nominate a candidate.

22 Q And it's a freedom of association and ability to nominate
23 candidate. Okay, what is the unconstitutional aspect of
24 Initiative 872 relating to freedom of association?

25 MR. MCDONALD: Objection to the form; calls for

1 legal conclusion.

2 MR. AHEARNE: I'm asking for the plaintiff's
3 understanding of the allegations he's made in this case.

4 MR. MCDONALD: That's fine.

5 A State the question again.

6 Q (By Mr. Ahearne) I had asked you a question on why you
7 believe Initiative 872 is unconstitutional. Do you recall
8 that?

9 A Yes.

10 Q And as I understood your answer, you said two reasons. One
11 was an impact on freedom of association and another was an
12 impact on ability to nominate candidates.

13 A Right.

14 Q So my question relates to the first reason you stated
15 relating to freedom of association.

16 A Well -- okay.

17 Q My question is: What relating to freedom of association
18 makes Initiative 872 unconstitutional?

19 MR. GROVER: This is Orrin Grover. I would join
20 in the previous objection to the extent that you're asking
21 him for a legal conclusion.

22 MR. AHEARNE: I am again asking for Plaintiff
23 Dwight Pelz's understanding of the allegations he has made
24 in this lawsuit.

25 MR. GROVER: Well, I would further object to the

1 extent that you're asking him for information that has been
2 obtained from his -- in conversations with his attorney or
3 covered under the attorney-client privilege or the work
4 product privilege in this case.

5 MR. AHEARNE: And if Plaintiff Dwight Pelz wants
6 to take the position that he doesn't have to say why he
7 believes Initiative 872 is unconstitutional, I am fine with
8 him being stricken as a plaintiff.

9 A Being stricken as a plaintiff?

10 Q (Nods head).

11 A I would ask the question, have we answered your question in
12 the legal papers that we've filed?

13 Q Are you a plaintiff in this lawsuit?

14 A Yes.

15 Q And in this lawsuit you're making the allegation that
16 Initiative 872 is unconstitutional, correct?

17 A Correct.

18 Q And my question is why are you taking the position that
19 Initiative 872 is unconstitutional?

20 A Okay. So we believe that when voters vote in an election
21 and see a candidate on the ballot with the word "Democrat"
22 or "Democratic" next to their name that the voters believe
23 that there is a relationship between that candidate and the
24 Democratic Party, and we believe that distinction is
25 blurred under the Top Two Primary and that the term --

1 well, I'll leave it at that.

2 Q Okay. And the statement by the candidate's name that
3 you're referring to, is that "Prefers Democratic Party" or
4 "Prefers Republican Party" --

5 A Correct.

6 Q -- or something like that?

7 A Correct.

8 Q Anything else?

9 A No.

10 Q I then have a question on frankly something I just don't
11 understand that's in the Complaint that you filed, and I
12 have an extra copy if you want to read it. Let me just
13 read it out loud because I think can answer my question
14 otherwise. In paragraph 48 of your Complaint the claim is
15 that the plaintiffs are entitled to a preliminary and
16 permanent injunction or injunctive relief restraining state
17 officials from, and then under paragraph D, conducting
18 elections of officers of the party directly or indirectly
19 including Precinct Committee Officers in any manner that is
20 not approved by the party provided that conducting such
21 elections in a manner that is the same as or substantially
22 similar to the process approved by the party for the
23 selection of this state's delegates to the party's national
24 convention shall be deemed acceptable for the selection of
25 Precinct Committee Officers, period.

1 Here's my question. What is the process approved by
2 the party for the selection of this state's delegates to
3 the party's national convention?

4 MR. MCDONALD: Objection to the form as
5 ambiguous unless you specify the year of the convention.

6 MR. AHEARNE: Well, I'm looking, Counsel, at the
7 Complaint that I believe you signed. Yes, you did. And
8 it's a reference to the process approved by the party for
9 the selection of this state's delegates to the party's
10 national convention. If you want me to ask for each of the
11 convention years, I can go ahead and do that.

12 MR. MCDONALD: Well, I'm -- at the -- to kind of
13 cut this short, I think what you want is the process that's
14 approved the same year as the PCO election, but the
15 question you asked him is what is the process that's
16 approved without specifying, and that's going to vary by
17 cycle.

18 MR. AHEARNE: I understand that.

19 Q (By Mr. Ahearne) What I'm trying to get at as, as I
20 understand this allegation, the process approved by the
21 party for selection of the state's delegates to the party's
22 national convention shall be deemed acceptable for the
23 selection of Precinct Committee Officers, I'm trying to
24 find out what the heck that means. So what is the process
25 approved by the party for the selection of the state's

1 delegates to the party's national convention?

2 A What is the process used by the party to choose delegates
3 to the national convention?

4 Q Yes, sir.

5 A I can speak to the process that was used in 2008.

6 Q All right.

7 A I'm not going to recollect every detail.

8 Q Just generally.

9 A All right. Generally speaking. Well, you were a delegate
10 so you should know.

11 Q As were many people in this room.

12 MR. MCDONALD: He's got a short memory, though.
13 He needs to be re-educated.

14 A Delegates, there were several ways one could become a
15 delegate to the Democratic National Convention that was
16 held in Denver in August of 2008. We had several paths by
17 which one might become a delegate. So, first of all, we
18 had super delegates, and super delegates consisted of --
19 included but not limited to members of Congress, DNC
20 members of which we have -- actually, we have six members
21 of the DNC; we have four elected and then the chair and
22 vice chair, automatically super delegates. We had some
23 honorary delegates such as Tom Foley. And then we elected
24 delegates in a two-tier fashion, and at first, as I recall,
25 coming out of legislative district conventions that began

1 with the precinct caucuses that moved to legislative
2 district conventions where we elected a set of delegates,
3 and then we aggregated the number of delegates that we'd
4 elected at that point and subjected them to the screen of
5 the male-female balance and some racial and sexual
6 preference and affirmative action balances. We then moved
7 to the state convention where we filled out the delegation
8 to achieve balance and to elect the remaining members of
9 the delegation.

10 And as I recall, the final people elected in Spokane
11 were, in fact, elected by the delegates that had been
12 elected for the previous party process.

13 Q Are you done?

14 A Yes.

15 Q How could Precinct Committee Officers be selected in a
16 fashion that's similar to the state delegates to the
17 party's national convention?

18 A I can't assure you that because I'm a plaintiff in this
19 case I have a complete memory of everything that's in our
20 filings, okay? And so I'm not -- I don't have an answer to
21 that question.

22 Q And I'm not trying -- this isn't supposed to be a trick
23 question or something. As I understand the filings, the
24 Democratic Party at least says it will be acceptable to use
25 the process approved by the party for the selection of the

1 state's delegates to the party's national convention. That
2 same process or a substantially similar one is used to
3 select Precinct Committee Officers, and I'm trying to
4 figure out what kind of process are you talking about?

5 MR. MCDONALD: Before you answer, if you want to
6 me to clarify on the record --

7 MR. AHEARNE: Okay.

8 MR. MCDONALD: -- I'll be happy to clarify since
9 I wrote it. What's intended is to focus on the aspect of
10 the presidential selection -- the delegate selection
11 process that relates to limiting participation to the
12 Democrats or Democrats and independents. There are two
13 possible processes, either a Presidential Preference
14 Primary, which under this state's law requires a voter to
15 sign an oath of support before they get a ballot, or there
16 is a process which begins with precinct caucuses, which
17 similarly, as I'm sure you recall, require a participant to
18 sign an oath before they participate in the precinct
19 caucus. It was that aspect of similarity that was intended
20 and also intended to give the state an option under
21 proposed injunction, if it chose to do so, to utilize the
22 Presidential Preference Primary if that was also being used
23 by us to select delegates.

24 Q Okay, thank you. Now I understand.

25 Last few questions. The interrogatory answers

1 submitted by the Democrats state that you, Mr. Pelz, will
2 testify regarding confusion among voters in connection with
3 the Top Two Primary as implemented by the State.

4 Mr. Pharris had asked you some questions, and you
5 identified two kinds of confusion; one, people don't know
6 what -- some people don't know what GOP means, and you used
7 the example of Dino Rossi saying Republican or GOP
8 depending on what polling said was better for him. That's
9 one kind of confusion --

10 A Correct.

11 Q -- that you mentioned, correct?

12 A Correct.

13 Q Then the other kind of confusion you mentioned was that
14 preference term creates confusion, correct?

15 A Correct.

16 Q Is there any other kind of confusion among voters that you
17 are aware of in connection with the Top Two Primary as
18 implemented by the state?

19 A I think voters assumed that the candidate on a general
20 election ballot connected to the Democratic Party in fact
21 is the nominee of the party, when in fact that person is
22 not the nominee of the party. So I think there's confusion
23 by voters who traditionally have voted in a general
24 election for the nominee of the Democrat or Republican
25 Party or a minor party, and they think they're doing that

1 again under the Top Two when in fact they're not.

2 Q Any others that comes to mind?

3 A Not at this time.

4 Q And this confusion that you had mentioned with the voters
5 assuming that a person is the nominee of the party when
6 they say they prefer the party --

7 A Right.

8 Q -- is that the confusion you were referring to earlier with
9 that preference term?

10 A No, I think it's somewhat different, I mean, because I
11 think the preference you encounter on the primary ballot
12 too as well as on the general election ballot, the
13 confusion about nominee is one on the general election
14 ballot.

15 Q Okay.

16 A But in both the primary and the general it says Prefers
17 Democratic Party and people go, "What does that mean?" or
18 "Why has that term been interjected into the ballot?"

19 Q And when you say that preference term creates confusion,
20 what's the confusion created by the preference term?

21 A The -- I mean, is Ichiro Suzuki a Mariner or does he prefer
22 the Mariners? I mean, traditionally you file as a
23 Democrat, and your statement is that you are a Democrat as
24 opposed to you prefer the Democratic Party, so I think it's
25 a different -- it's a different statement.

1 Q Just so I can be clear, saying you prefer the Democratic
2 Party is a different statement than saying you are filing
3 as a Democrat?

4 A I believe so.

5 Q Okay. Any other kinds of confusion that you were referring
6 to when you talked about that preference term creating
7 confusion?

8 A Not at this time.

9 Q Another thing you were identified to testify about is the
10 impact on party-supported candidates of the confusion among
11 voters. What -- my question is: What impact on
12 party-supported candidates have you seen from the confusion
13 among voters that you're referring to?

14 A Well, again, the party will provide support to candidates
15 that are nominees and candidates in the same race that
16 aren't nominees.

17 Q And if I could just interrupt for a second, when you say
18 support, you mean both financial support as well as
19 information support on the list that you referred to
20 earlier?

21 A No, I wouldn't say financial support or information
22 support. We will provide support. So, to use your term,
23 yes, we provide support to candidates that are the nominee
24 and candidates that aren't the nominee. Specifically we
25 will provide the support of access to the voter file. All

1 right?

2 And, again, as I stated, in terms of monetary
3 support, it's very rare that we would provide monetary
4 support to a candidate that wasn't the nominee of the
5 party. We do not provide much monetary support prior -- in
6 a primary, prior to the general election. We do -- at
7 times the state party will finance slate cards and
8 information about candidates in the primary at times. We
9 would not list a candidate on a slate card in the primary
10 and probably not in the general if they weren't the nominee
11 of the party.

12 Q Just two terms you used. When you talk about the voter
13 file, could you briefly explain what you're talking about?

14 A It's the list of registered voters.

15 Q So it's all registered voters, not weeded through by the
16 party for these are the guys that, quote, males or females,
17 more likely to vote Democrat to than Republican or
18 something like that?

19 A Our voter file consists of information that we have on
20 voters including the question of whether they're likely
21 Democrats or likely Republicans.

22 Q Any other types of information in that voter file that you
23 provide to candidates?

24 A I mean, the voter file consists of the raw data from the
25 Secretary of State and then our enhancements to that data,

1 and the Secretary of State, for example, will let you know
2 that a person voted in three of the last four elections, so
3 that information will be in there, and then we have
4 information in the voter file through a historical contact
5 with voters that gives us some indication if they're a
6 strong Democrat, a likely Democrat, an independent. That
7 information is contained in the voter file.

8 Q You also referred to the term slate card. For the record,
9 what's that?

10 A A slate card might be a list of endorsed candidates or
11 nominated candidates. It would be a list -- to the voter
12 it would appear like these are the -- the Democratic Party
13 urges you to vote for these people, so it would be a list
14 of candidates supported by the party.

15 MR. AHEARNE: That's all I have.

16 MR. MCDONALD: Do either of you on the phone
17 have questions?

18 MR. WHITE: This is John White. I have no
19 questions.

20 MR. MCDONALD: Orrin?

21 MR. GROVER: This is Orrin. I don't have any
22 questions either.

23 MR. MCDONALD: I have a couple of questions.

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1 EXAMINATION

2 BY MR. MCDONALD:

3 Q Does the voter file include information about whether the
4 voter requested a Democratic ballot in the Presidential
5 Preference --

6 A Yes.

7 Q -- Primary? You need to let me finish my question.

8 What is the charter of the Democratic Party?

9 A The charter is -- we have the charter and we have the
10 bylaws, and the charter, I believe, is basically the
11 founding document that creates the party and subsequently
12 amended, and the bylaws are specific rules for the
13 implementation of the charter.

14 Q Do you recall whether the charter of the Democratic Party
15 sets forth the requirements for being a member of the
16 Democratic Party?

17 A I do not recall.

18 Q If the charter sets forth requirements for membership in
19 the Democratic Party, would you continue to indicate that
20 there's no formal requirement of membership in the party?

21 A Yes, I would stand corrected.

22 Q Was that -- you said yes, you would stand corrected, but I
23 think my question was actually asking if you would continue
24 to assert that there was not such a test?

25 A No, I would not.

1 MR. MCDONALD: I have no further questions.

2 MR. PHARRIS: I have no further questions.

3 MR. AHEARNE: I have one, actually, to follow up
4 on this voter file.

5 EXAMINATION

6 BY MR. AHEARNE:

7 Q How far back does it go with the Presidential Preference
8 Primary, does the voter file go? You mentioned voter file
9 that the state Democratic Party provides to candidates
10 includes whether a voter chose the Democratic Presidential
11 Preference ballot, correct?

12 A Correct.

13 Q How many years back does that go?

14 A I don't know specifically. I will say '08. I don't know
15 the answer to that. It's a very easily discernible answer.
16 You know, however, there's a point at which information
17 becomes dated, and I think we'd discount it over time.

18 Q Okay. And you probably answered this before, but I didn't
19 put it down. Do you provide that voter file to anyone who
20 files saying they prefer the Democratic Party?

21 A We will make exceptions at times, but as a general policy,
22 yes.

23 Q And sitting here today, do any of those exceptions come to
24 mind? Do you recall any exceptions?

25 A I think that in 2006 when Senator Sheldon ran for

1 re-election, we did not nominate -- Senator Sheldon is a
2 Democrat, a member of the Legislature, but runs afoul of
3 the party at times, and I think that the state party made a
4 financial donation to his opponent, and I believe the local
5 party may have endorsed his opponent, and I believe I may
6 have made a decision not to make the voter file available
7 with Senator Sheldon. So there are occasions when I --
8 when there is strong feelings within the party that a
9 person -- this is the sort of disavow motion if we sort of
10 a disavow a person, we might not make the voter file
11 available to that person.

12 Q And when you're referring to Senator Sheldon, you're
13 referring to State Senator --

14 A State Senator Tim Sheldon.

15 Q And other than that example of State Senator Tim Sheldon,
16 do any other examples come to your mind of --

17 A Well, Glen Stockwell. I would say half a dozen times I
18 have denied access to the voter file to a person filing as
19 a Democrat.

20 One of the major things to understand is we do our
21 nominations in May and June. Candidates begin their
22 campaigns in January, February, April, March. And so we
23 make the voter file available to a candidate when they
24 announce -- when they come to us and say they're running as
25 a Democrat and they probably filed with the PDC. There's a

1 very low threshold for that point, but we make the voter
2 file available to candidates well before the nomination
3 process, and we don't as a result of the nomination then
4 withdraw access to the voter file from a candidate.

5 Q When you said about half a dozen times, over what time span
6 was that?

7 A In my tenure, four and a half years.

8 Q Okay.

9 MR. AHEARNE: I have nothing else.

10 MR. PHARRIS: That's it.

11 MR. MCDONALD: Nothing here.

12 MR. PHARRIS: Are we done? I think we are.

13 MR. GROVER: This is Orrin. No questions from
14 me.

15 MR. WHITE: This is John white. No questions.

16 (Concluded at 11:39 a.m.)

17 (Signature reserved)

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C E R T I F I C A T E

I, DIXIE J. CATTELL, a duly authorized Notary Public in and for the State of Washington, residing at Olympia, do hereby certify:

That the foregoing deposition of DWIGHT PELZ was taken before me and completed on the 4th day of August, 2010, and thereafter transcribed by me by means of computer-aided transcription; that the deposition is a full, true and complete transcript of the testimony of said witness;

That the witness, before examination, was, by me, duly sworn to testify the truth, the whole truth, and nothing but the truth, and that the witness reserved signature;

That I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That I am herewith securely sealing the deposition of DWIGHT PELZ and promptly serving the same upon MR. JAMES PHARRIS.

IN WITNESS HEREOF, I have hereunto set my hand and affixed my official seal this _____ day of _____, 2010.

Dixie J. Cattell, CSR#2346
Notary Public in and for the State
of Washington, residing at Olympia.