

EXHIBIT I

LAW OFFICES
LIVENGOOD, FITZGERALD & ALSKOG
A PROFESSIONAL LIMITED LIABILITY COMPANY

RECEIVED
OSS
2010 MAY 24 A 8:16
ATTORNEY GENERAL
OF
WASHINGTON

JAMES S. FITZGERALD*
DAVID A. ALSKOG
DAVID B. JOHNSTON
JOHN J. WHITE, JR.
DAVID J. SEELEY**
KEVIN B. HANSEN
THOMAS K. WINDUS+
GREGORY A. McBROOM
HUGH W. JUDD, P.S. +

PHILIP L. CARTER, RETIRED
ROBERT P. TJSSEM, RETIRED

121 THIRD AVENUE
POST OFFICE BOX 908
SEASIDE, WASHINGTON 98083-0908

PHONE: (425) 822-9281
FAX: (425) 828-0908

E-Mail: white@lfa-law.com

*ALSO ADMITTED IN OREGON
**ALSO ADMITTED IN CALIFORNIA
+OF COUNSEL

GORDON A. LIVENGOOD (1921 - 2001)

May 20, 2010

Jeffrey T. Even
Assistant Attorney General
P.O. Box 40100
Olympia, WA 98504-0100

Re: WSRP v. State/USDC No. CV05-0927-JCC

Dear Mr. Even:

Pursuant to our telephone discussion of today, I am enclosing a CD containing the draft Stipulation Regarding Admissibility of Exhibits.

If you need anything further, please contact me.

Very truly yours,

LIVENGOOD, FITZGERALD &
ALSKOG, PLLC



Rebecca L. Petruzzo
Legal Assistant/Paralegal

/rlp
Enclosure: a/s

RE: Reader Feedback: new post for "Questions about the new top-two primary?"

Page 1 of 2

John White

From: Ammons, Dave [dammons@secstate.wa.gov]
Sent: Monday, August 04, 2008 1:04 PM
To: Susan Gilmore
Subject: RE: Reader Feedback: new post for "Questions about the new top-two primary?"

Our new voter-approved Top 2 Primary allows candidates to self-describe their party preference, but doesn't directly attach the party label to the candidate, as that might imply that they have the party's blessings. As Chief Justice Roberts wrote in supporting the Top 2 majority, just because someone likes Campbell's soup doesn't mean the Campbell's Soup Co. supports him or her.

Parties are free to nominate their favored candidates, but this information does not go on the ballot. This information may be used in campaigns and in the Voters' Pamphlet.

David Ammons
Communications Director
Office of Secretary of State
o (360) 902-4140
c (360) 280-3944
h (360)357-8908

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

From: Susan Gilmore [mailto:sgilmore@seattletimes.com]
Sent: Monday, August 04, 2008 11:11 AM
To: Ammons, Dave
Subject: FW: Reader Feedback: new post for "Questions about the new top-two primary?"

Hi David:

We're soliciting reader questions on the top-two and I'm going to send a couple to you to get the answers. Here's the first:

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

From: Reader Feedback Manager
[mailto:newmediaseattletimesengineers@seattletimes.com]
Sent: Monday, August 04, 2008 8:47 AM
To: Susan Gilmore; Richard Wagoner; T.J. Ortenzi
Subject: Reader Feedback: new post for "Questions about the new top-two primary?"

Thread: Questions about the new top-two primary?
Submitted Date: 08/04/2008 08:46 am
Moderate:
http://community.seattletimes.nwsource.com/reader_feedback/admin/moderate.php?id=757

Display Name: Carol
Location: Everett

Message:

9/15/2008

RE: Reader Feedback: new post for "Questions about the new top-two primary?"

Page 2 of 2

Why does the voter's pamphlet say "prefers" democrat or republican ?
Why not just say they are democrat or republican.

Custom fields:

John White

From: Ammons, Dave [dammons@secstate.wa.gov]
Sent: Friday, August 01, 2008 6:19 PM
To: Susan Gilmore
Subject: RE: `Top 2 Palooza' tour

You bet. Free of charge. You owe me a beer.
d.

David Ammons
Communications Director
Office of Secretary of State
o (360) 902-4140
c (360) 280-3944
h (360)357-8908

From: Susan Gilmore [mailto:sgilmore@seattletimes.com]
Sent: Friday, August 01, 2008 4:35 PM
To: Ammons, Dave
Subject: RE: `Top 2 Palooza' tour

many thanks. send me your bill.

From: Ammons, Dave [mailto:dammmons@secstate.wa.gov]
Sent: Friday, August 01, 2008 3:52 PM
To: Susan Gilmore
Subject: RE: `Top 2 Palooza' tour

[SR.com: An overview of the top two system](#)

SPOKESMANREVIEW.COM

Friday, August 1,

SPOKANE

An overview of the top two system

Jim Camden
Staff writer
July 13, 2008

The Spokesman-Review's election-answer person responds to some of the frequently asked questions about the upcoming Washington state primary:

Q: So, with all these campaign yard signs I'm seeing everywhere, do we have an election or something coming up?

A: Yes, the state primary, also known as the top two primary, is Aug. 19.

Q: Isn't that a bit early?

A: It might seem that way, particularly for longtime Washington voters who got used to the primary being in September. But last year the Legislature moved the primary to the third Tuesday in August to put more time between the primary and the general election in November.

Q: And they did this to ...?

A: To allow more time to print up and mail out the general election ballots. Most of the state votes by mail now, and there were concerns that military members serving overseas wouldn't get their ballots in time to mark them and get them back if a primary race was so close it needed a recount.

Q: So this year's primary is like last year's primary?

A: Only as far as scheduling is concerned. This year the state will debut the top two primary, in which voters get a single ballot with all the candidates' names on it. A voter can choose a candidate from any party for any race, but only one candidate per office.

9/15/2008

Last year's election was primarily for municipal offices, which are nonpartisan, but two years ago, the partisan primary was limited by party and voters had to pick one party's ballot and select only among that party's candidates.

Q: That doesn't sound right. Weren't we able to pick a Democrat for one office, a Republican for another and even a communist for a third if we wanted in primaries?

A: Once upon a time, but not in 2006. What you're thinking of is the old blanket primary, which Washington had for about 70 years.

Q: Yeah, I remember that system. Why'd we get rid of that?

Because the federal courts said it was unconstitutional. It infringed on the political parties' ability to make sure that Democratic nominees were selected by Democrats, Republican nominees by Republicans, and so forth, the 9th U.S. Circuit Court of Appeals said in 2003. So the voters opted for the top two primary in an initiative in 2004.

Q: But if it passed in 2004, how come we're just doing this for the first time in 2008?

A: Because the major political parties, who successfully sued the state to get rid of the blanket primary, also sued over the top two primary. While the suit was pending, the state used an alternate system it cobbled together after the federal court ruling, which required separate party ballots or at least divisions for the parties on a single ballot. The U.S. Supreme Court didn't rule that the top two primary could pass constitutional muster until this March.

Q: So now everyone's happy with this top two system?

A: The major political parties think the way it has been set up for this election is unconstitutional and sent letters to Secretary of State Sam Reed last week to that effect. They'll probably be back in federal court at some point, but Reed says the election will go on as planned.

Q: How will it work?

A: You'll get one ballot with all the races on it, partisan offices as well as the nonpartisan races like the judges. Most counties vote completely by mail, so those ballots will arrive around the end of July, and must be postmarked no later than Election Day, which is Aug. 19. It's a fairly busy election year, so all the statewide executive offices, from governor on down, are on the ballot, as are the U.S. House races (there's no U.S. Senate race this year in Washington), legislative races and county commissioner posts in many counties.

On the partisan races, candidates will list their party preference, but you can vote for any candidate in any race.

Q: So I can vote for Barack Obama for president but Dino Rossi for governor?

A: No. The presidential primary was in February, so Obama and John McCain won't be on the Washington ballot again until November. But you could vote for Rossi, who lists his party preference as GOP, for governor; Brad Owen, who lists his party preference as a Democrat, for lieutenant governor; Marilyn Montgomery, who lists the Constitution Party, for secretary of state; and Curt Fackler, who lists no party preference, for insurance commissioner. In the old system, the Democrat who got the most votes and the Republican who got the most votes automatically went to the general election. So did any third party candidate or independent candidate who got a minimum vote threshold. Under this system, the top two vote recipients, regardless of party preference, go on to the general.

Q: Why do you keep saying "party preference" instead of just "party"?

A: Because the candidates are only asked which party they would prefer to have listed. The parties still have no say in determining who gets to call themselves a Democrat or a Republican and can endorse a candidate or not as they see fit. The winner isn't the party's nominee.

Q: So in some races, we could have two Democrats or two Republicans in the general election?

A: That's possible. It will happen in a state House race in the 7th Legislative District, because only Republicans are running. It could happen in a race with candidates of several different party preferences listed, although it's mathematically unlikely in a race with several candidates from one major party and a single candidate from the other major party.

Q: What about the Greens, the Libertarians, the other minor parties and the independents?

A: In theory, they've got the same chance as any candidate listing Democratic or Republican preference. In reality, it could be difficult for them to get to the general election if there's a Democrat and a Republican in that race.

Q: So this is the way the primary is going to be from now on?

A: Hard to say. We've had three different systems since 2004, so it would be a bit of a surprise if something didn't change between now and 2010. In the meantime, don't forget: any candidate for any race, but only one candidate per race, and the ballots must be postmarked by Aug. 19.

David Ammons

Communications Director

Office of Secretary of State

o (360) 902-4140

c (360) 280-3944

h (360)357-8908

From: Susan Gilmore [mailto:sgilmore@seattletimes.com]

9/15/2008

Sent: Friday, August 01, 2008 3:44 PM
To: Ammons, Dave
Subject: RE: `Top 2 Palooza' tour

do you have the camden article you could send me? I can't get it without paying for it, even on google. thanks.

From: Ammons, Dave [mailto:dammons@secstate.wa.gov]
Sent: Friday, August 01, 2008 2:49 PM
To: Susan Gilmore
Subject: RE: `Top 2 Palooza' tour

We have an excellent FAQ for voters and a separate one for candidates. Both are on vote.wa.gov. Also you might Google Jim Camden's Q&A over at the Spokane Spokesman-Review from several weeks ago.

Hope all goes well, and that you're back to health.
Best.

dave

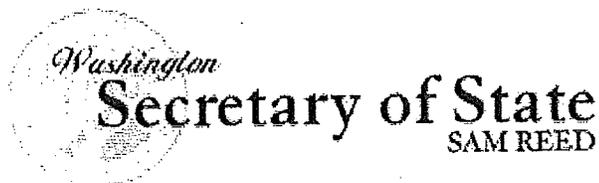
David Ammons
Communications Director
Office of Secretary of State
o (360) 902-4140
c (360) 280-3944
h (360)357-8908

From: Susan Gilmore [mailto:sgilmore@seattletimes.com]
Sent: Friday, August 01, 2008 2:20 PM
To: Ammons, Dave
Subject: RE: `Top 2 Palooza' tour

hey david:

The powers that be here want us to do a big q and a on the top two and we're now soliciting questions from readers, but do you have anything already put together answering the burning questions? thanks, susan

From: Ammons, Dave [mailto:dammons@secstate.wa.gov]
Sent: Friday, August 01, 2008 2:14 PM
Cc: Reed, Sam (Office); Elections; Deutsch, Joanie; Even, Jeff; Egan, Bobbie; Guthrie, Janelle (ATG)
Subject: `Top 2 Palooza' tour



Media Advisory

Secretary of State to hold media availability to discuss Top 2 Primary

Issued: August 1, 2008
Contact: Stephanie Horn
(360) 902-4193

OLYMPIA __ Secretary of State Sam Reed, the state's chief elections official, plans a statewide media tour during the next two weeks to discuss Washington's brand new Top 2 primary, answer critics, and release his turnout prediction. He will also tout the state's unique MyVote program, a one-stop, custom-tailored way for voters to check on their registration, to learn more about the races they have on their ballot and to check on the closest dropoff site for mail ballots. We will have Top 2 media kits, which are also available online at www.vote.wa.gov/. Some of the events are editorial boards or one-on-one interviews and others are open-media regional news conferences that are co-hosted by County Auditors. We hope you can attend the event closest to you. We can also arrange interviews (newspaper, radio, TV, bloggers) during the run-up to election day, Aug. 19. Most mail ballots are being sent to voters this weekend and early in the new week. Of the 39 counties, only King and Pierce still have poll site voting.

The kickoff of our "Top 2 Palooza" will be Monday morning with a walkabout at the press houses on the Capitol Campuses in Olympia at 10 a.m.

The four regional media events:

August 6, 9:30 am - 10:30 am

King County Elections Department
919 SW Grady Way
Renton, WA 98057
Joining Secretary Reed is Elections Director Sherril Huff.

August 6, 1:30 pm - 2:30 pm

Spokane County Elections Department
1033 West Gardner
Spokane, WA 99260
Joining Secretary Reed is Spokane County Auditor Vicki Dalton.

August 12, 10:30 am - 11:30 am

Yakima County Elections Department
128 N 2nd Street
Yakima, WA 98901
Joining Secretary Reed are Yakima County Auditor Corky Mattingly, Klickitat County Auditor Brenda Sorenson, and Kittitas County Auditor Jerry Pettit.

August 12, 1:30 pm - 2:30 pm

Benton County Elections Department
620 Market Street
Prosser, WA 99350
Joining Secretary Reed are Benton County Auditor Bobbie Gagner, Walla Walla County Auditor Karen Martin, and Franklin County Auditor Zona Lenhart.

9/15/2008

###

David Ammons
Communications Director
Office of Secretary of State
o (360) 902-4140
c (360) 280-3944
h (360)357-8908

9/15/2008

John White

From: Handy, Nick [nhandy@secstate.wa.gov]
Sent: Monday, August 25, 2008 8:28 AM
To: Ammons, Dave
Subject: RE: Primary Results

I have not done any analysis on this, but it appears to me that the Rs might be having a mild post primary night surge that is helping Sam and Dino. We've seen that in recent years.

On the other hand, in terms of the Governor's race, the 60,000 votes King reports yet to count is slight more proportional than the 140,000 reported statewide. That suggests that Gregoire might have more votes left to count.

But, the 2 to 4% difference forecasted by the polls in that race seems to be holding up pretty well.

Looks like we will have between 1.4 and 1.5 million voters in the primary. That is a respectable showing and we still have a shot at Sam's 46% although my guess right now is that we will fall in the 44% range.

From: Ammons, Dave
Sent: Monday, August 25, 2008 8:21 AM
To: Handy, Nick
Subject: RE: Primary Results

Late Friday, Sam was ahead of Sonntag in percentage, too. Also note that Rossi-Gregoire is 2 percent spread at the moment.

Best,
D

David Ammons
Communications Director
Office of Secretary of State
o (360) 902-4140
c (360) 280-3944
h (360)357-8908

From: Handy, Nick
Sent: Monday, August 25, 2008 8:14 AM
To: Legislative Bldg - All
Cc: 'Sam S. Reed'
Subject: Primary Results

Team,
The election results for the first time are now showing that Sam has more votes than any other statewide elected official (with an opponent) running in the primary.

Sam just moved past Brian Sonntag in total votes received.

Sam has also crossed the 59% number. Sonntag and Sam are leading the state elected officials at 59%.
Nick

Nick Handy
Director of Elections
Office of Secretary of State
State of Washington
(360) 902-4156

9/15/2008

EXHIBIT J

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

The Honorable John C. Coughenour

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

WASHINGTON STATE REPUBLICAN
PARTY, et al.,

Plaintiffs,

NO. CV05-0927-JCC

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE, et al.,

Plaintiff Intervenors,

STATE INTERVENORS'
INITIAL DISCLOSURE OF
FACT AND LAY WITNESSES

LIBERTARIAN PARTY OF
WASHINGTON STATE, et al.,

Plaintiff Intervenors,

v.

STATE OF WASHINGTON, et al.,

Defendant Intervenors,

WASHINGTON STATE GRANGE, et al.,

Defendant Intervenors.

1 Pursuant to FRCP 26(a)(1), Defendant Intervenors State of Washington submit the
2 following disclosures based on information currently available to counsel.

3 Each of the following individuals is currently employed by the Washington State Office
4 of the Secretary of State, Elections Division, and is reachable at the following address: 520
5 Union Avenue SE, Olympia WA 98504, and contact number: (360) 902-4180.

- 6 ■ Nick Handy, Director of Elections
- 7
- 8 ■ Katie Blinn, Assistant State Elections Director

9 Each of these individuals may testify as to the State's election process, including but not
10 limited to: the manner of conducting primary and general elections under Initiative 872,
11 communications between state and county election officials concerning the implementation of
12 I-872 and the operation of elections, and the State's efforts to educate voters about the top two
13 primary system.
14

15 Defendant Intervenors reserve the right to supplement their disclosures of witnesses
16 pursuant to Rule 26(a)(1)(A) at any time, up to and including the time of trial.

17 DATED this 3rd day of May, 2010.

18 ROBERT M. MCKENNA
19 Attorney General

20 s/ James K. Pharris
21 James K. Pharris, WSBA #5313
22 Deputy Solicitor General

23 s/ Jeffrey T. Even
24 Jeffrey T. Even, WSBA #20367
25 Deputy Solicitor General

26 s/ Allyson Zipp
Allyson Zipp, WSBA #38076
Deputy Solicitor General
PO Box 40100
Olympia, WA 98504-0100
360-664-3027

Attorneys for State Intervenors

CERTIFICATE OF SERVICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

I certify that on this date I emailed a copy of State Intervenors' Initial Disclosure Of Fact

And Lay Witnesses to counsel listed below.

John White
Kevin Hansen
Livengood, Fitzgerald & Alskog
121 Third Avenue
Kirkland, WA 98033-0908
Email: white@lfa-law.com; Hansen@lfa-law.com
Attorneys for Plaintiffs Wash. State Republican Party

Thomas Ahearne
Marco Magnano
Kathryn Carder
Foster Pepper
1111 Third Ave., Suite 3400
Seattle, WA 98101
Email: ahearne@foster.com, magnm@foster.com, cardk@foster.com
Attorneys for Defendant-Intervenor Washington State Grange

Orrin Grover
Attorney at Law
416 Young Street
Woodburn, OR 97071
Email: orrin@orringrover.com; gkiller3@earthlink.net
Attorneys for Intervenor Plaintiffs Libertarian Party, Ruth Bennett, and J.S. Mills

David McDonald
Alex Wagner
K&L Gates
925 Fourth Ave., Suite 2900
Seattle, WA 98104-1158
Email: david.mcdonald@klgates.com, alex.wagner@klgates.com
Attorneys for Intervenor Plaintiffs Wash. Democratic Central Committee and Paul Berendt

Executed this 3rd day of May, 2010, at Olympia, Washington.

ROBERT M. MCKENNA
Attorney General

s/ James K. Pharris
James K. Pharris

EXHIBIT K

Honorable John C. Coughenour

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON STATE REPUBLICAN
PARTY, et al.,

Plaintiffs,

WASHINGTON DEMOCRATIC
CENTRAL COMMITTEE, et al.,

Plaintiff Intervenors,

LIBERTARIAN PARTY OF
WASHINGTON STATE, et al.,

Plaintiff Intervenors,

v.

STATE OF WASHINGTON, et al.,

Defendant Intervenors,

WASHINGTON STATE GRANGE,

Defendant Intervenors.

NO. CV05-0927-JCC

PLAINTIFFS' INITIAL DISCLOSURE OF
FACT AND LAY WITNESSES

1 Pursuant to FRCP 26(a)(1), Plaintiff Washington State Republican Party submits the
2 following disclosures based on information currently available to counsel.

3 A. Each of the following individuals is currently employed by the Washington State
4 Republican Party, and is reachable at the following address: 2840 Northup Way, Ste. 140
5 Bellevue, WA 98004, and contact number: (425) 460-0570.

- 6 ▪ **Luke Esser**, Chairman
- 7 ▪ **Dan Brady**, Executive Director

8 Each of these witnesses may testify regarding the history, purpose and organization of the
9 Republican Party, its efforts to convey its political message to voters and the public, the impact
10 of I-872 on the Party's message and candidates, and incidents of confusion regarding candidates
11 and their association or lack thereof with the Republican Party.

12 B. **Sam Reed**, Secretary of State for Washington, 520 Union Avenue SE, Olympia,
13 WA 98504 and contact number 360-902-4180. The Secretary is expected to testify regarding
14 Washington's implementation of I-872.

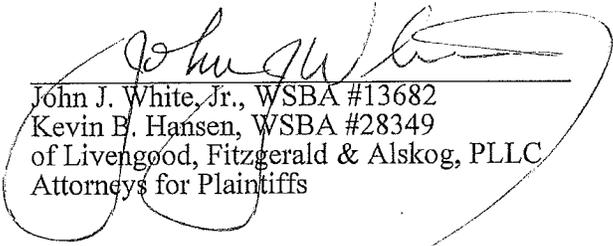
15 C. **Reuven Carlyle**, State Representative, 3131 Western Ave., Suite 421, Seattle,
16 WA 98121, and contact number (206) 216-3184. Rep. Carlyle may testify regarding
17 organization of the legislature, the effect of I-872 on candidate messages, and political
18 campaigns, including the information conveyed to voters by party designations on the ballot and
19 other election-related material.

20 D. **Hal Spencer**, employee of the Office of the Secretary of State, 520 Union
21 Avenue SE, Olympia, WA 98504. Mr. Spencer may testify about voter confusion regarding the
22 Top Two Primary ballot.
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Plaintiff reserves the right to supplement its disclosures of witnesses pursuant to Rule 26(a)(1)(A) at any time, up to and including the time of trial.

DATED this 4th day of May, 2010.



John J. White, Jr., WSBA #13682
Kevin B. Hansen, WSBA #28349
of Livengood, Fitzgerald & Alskog, PLLC
Attorneys for Plaintiffs

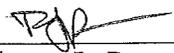
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2010, I e-mailed a copy of Plaintiffs' Initial Disclosure of Fact and Lay Witnesses to counsel listed below.

James K. Pharris, WSBA #5313
Jeffrey T. Even, WSBA #20367
Assistant Attorney General
P.O. Box 40100
Olympia, WA 98504-0100
E-mail: jamesp@atg.wa.gov, jeffe@atg.wa.gov
Attorneys for Defendant Intervenor State of Washington

Thomas F. Ahearne, WSBA #14844
Kathryn Carder, WSBA # 38210
Foster Pepper PLLC
1111 Third Ave. Suite 3400
Seattle, WA 98101
Email: ahearne@foster.com, cardk@foster.com
Attorneys for Defendant-Intervenor Washington State Grange



Rebecca L. Petruzzo, Legal Assistant
Livengood, Fitzgerald & Alskog, PLLC