

Hon. John C. Coughenour

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON STATE REPUBLICAN
PARTY, et al.,

Plaintiffs,

NO. CV05-0927-JCC

WASHINGTON DEMOCRATIC CENTRAL
COMMITTEE, et al.,

Plaintiff Intervenors,

DECLARATION OF JOHN J. WHITE,
JR. IN OPPOSITION TO STATE'S
MOTION FOR ENTRY OF
JUDGMENT

LIBERTARIAN PARTY OF
WASHINGTON STATE, et al.,

Plaintiff Intervenors,

vs.

STATE OF WASHINGTON, et al.,

Defendant Intervenors,

WASHINGTON STATE GRANGE, et al.,

Defendant Intervenors.

I, John J. White, Jr. hereby declare as follows:

1. I am one of the attorneys of record for plaintiff, Washington State Republican

1 Party (“WSRP”), in this matter. I am over the age of eighteen years, have personal knowledge
2 of the matters set forth herein, and am competent to testify thereto. I submit this declaration
3 in opposition to the State’s motion for entry of judgment.

4 2. The material submitted by the State in support of its motion for entry of
5 judgment relates to a single snippet from a conversation I had with James Pharris and Jeffrey
6 Even on September 21, 2009, regarding the court order on attorneys’ fees paid to the WSRP.
7 I relayed several areas of concern regarding compliance as a practical matter. A true and
8 correct copy of an e-mail sent by me to James Pharris on that date is attached as **Exhibit 1**.

9 3. In my conversation with Mr. Pharris and Mr. Even on September 21, 2009, I
10 relayed to them that I had several concerns about an immediate refunding of the fees previously
11 paid to the WSRP. First, I informed Messrs. Pharris and Even that the Washington State
12 Republican Party and the State Public Disclosure Commission were currently litigating the
13 question of the legally permitted uses for the WSRP “exempt” activities account and that this
14 litigation was the catalyst for Judge Zilly’s recusal in this case and its reassignment. I informed
15 them that the State had moved for summary judgment, asserting that payment of any expense
16 from the exempt account other than those expressly identified in the statute violated the law.
17 The case is pending in King County Superior Court, Cause No. 08-2-34030-9SEA. The legal
18 fees paid by the State were deposited to the WSRP “exempt” account. A refund of the fees
19 paid from the exempt account would violate the statute, if the State’s theory in the pending
20 state court action were correct. I told them that any refund required should not be paid until,
21 at least, the State’s pending summary motion against the WSRP had been resolved so the
22 WSRP would know from what funds it could make the refund. The hearing had been set for
23 October 9. That motion is currently scheduled to be heard before Judge Ramsdell in King
24 County Superior Court on December 18, 2009.

25 4. I also told Messrs. Pharris and Even that the State’s ultimate liability for fees
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1 depended on resolution of the case's merits and that the WSRP had very strong claims arising
2 from PCO elections under I-872. I told Messrs. Pharris and Even that it was my intention to
3 bring a motion for partial summary judgment on the PCO issue before the end of the calendar
4 year. I suggested that it would be prudent for the State to await adjudication of the merits
5 before determining whether any amount might ultimately be due to it, or whether the fees
6 already paid would be credited against its ultimate liability.

7 5. Finally, I told Messrs. Pharris and Even that immediate payment of a large sum
8 from the WSRP a few weeks before the general election could significantly interfere with the
9 WSRP's ability to participate effectively in the upcoming election. I told Messrs. Pharris and
10 Even that there were strong grounds for the State to take no action at that time. Messrs. Pharris
11 and Even told me that the State would take no action presently and would let me know if that
12 position changed.

13 6. Following the September 21, 2009, teleconference, while there were discussions
14 with State counsel regarding the planned filing of the motion for partial summary judgment
15 and other issues related to this case, at no time did the State raise again the question of a refund
16 of fees.

17 7. A true and correct copy of the PDC's contribution limits chart is attached as
18 **Exhibit 2.**

19 8. A true and correct copy of the "State Party Committees" page from the PDC web
20 site, retrieved December 7, 2009, as **Exhibit 3.**

21 9. A true and correct copy of the cover page and page 3 of the State's Motion for
22 Partial Summary Judgment in King County Superior Court, Cause No. 08-2-34030-9SEA, is
23 attached as **Exhibit 4.**

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EXECUTED at Kirkland, Washington on December 7, 2009

/s/ John J. White, Jr.
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CERTIFICATE OF SERVICE

I hereby certify that on December 7, 2009, I caused to be electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

James Kendrick Pharris

Orrin Grover

Thomas Ahearne

David T. McDonald

/s/ John J. White, Jr.
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IN OPPOSITION TO STATE'S MOTION
FOR ENTRY OF JUDGMENT - 4

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