

The Honorable John C. Coughenour

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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.

DEAN LOGAN, King County Records &
Elections Division Manager; et al.,

Defendants,

STATE OF WASHINGTON, et al.,

Defendant Intervenors

WASHINGTON STATE GRANGE,

Defendant Intervenors.

No. CV05-0927Z

REPLY IN SUPPORT OF
WASHINGTON STATE GRANGE'S
MOTION TO STRIKE WASHINGTON
STATE REPUBLICAN PARTY'S
SUPPLEMENTAL AND AMENDED
COMPLAINT

**NOTE ON MOTION CALENDAR:
FEBRUARY 26, 2010**

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I. REPLY ARGUMENT

Defendant Washington State Grange (the “Grange”) brought this Motion to Strike Republican Party’s Supplemental and Amended Complaint for two reasons. One, the Republicans failed to seek leave from this Court to file that amended complaint as required by Federal Rule of Civil Procedure 15(a)(2). Two, the Republicans’ Amended Complaint also fails to (1) identify and isolate the specific applications of Initiative 872 that the Republicans contend are unlawful or unconstitutional, within the scope of this Court’s August 20 Order; (2) specify the relief sought with respect to those allegations; and (3) remove allegations and claims relating to issues dismissed by the United States Supreme Court, the Ninth Circuit, and this Court.

With respect to the first reason, the Republicans’ were required to comply with Rule 15 before filing that Amended Complaint, either by seeking leave from the Court or securing consent from the parties. Fed. R. Civ. P. 15(a)(2). The Republicans do not dispute that they did neither. Instead, they now claim that they were entitled to ignore Rule 15 because their Amended Complaint is “substantially the same as the supplemental and amended complaint filed on January 22, 2010.” (Washington State Republican Party’s Response in Opposition to State and Grange Intervenors’ Motions to Strike Supplemental and Amended Complaint p. 11.)

The Republicans’ argument fails for two reasons.

First, they provide no legal authority which allows a parties to avoid Rule 15 when they think their amended complaints *would be* approved by the court if they had been originally submitted in that form.

Second, even if such an exception to Rule 15 existed, the Republicans’ Amended Complaint would not qualify. As explained in the Grange and the State’s opening briefs, the Republicans’ Amended Complaints fail to comply with the Court’s August 20, 2009 Order.

And, as explained by the State in its Reply on Motion to Strike Republican Party’s Supplemental and Amended Complaint, the Republicans’ arguments that their Amended

1 Complaint complies with that Order are insufficient. Instead of repeating and rearguing those
2 same arguments, to preserve the time of the Court and the parties, the Grange hereby joins in the
3 State's Reply, filed with the Court today (Docket No. 224).

4 **II. CONCLUSION**

5 For these reasons, including all reasons set forth in the State's Reply on Motion to Strike
6 Republican Party's Supplemental and Amended Complaint, the Grange respectfully requests
7 that Court strike the Republicans' Amended Complaint.

8 DATED this 26th day of February, 2010.

9
10 FOSTER PEPPER PLLC

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CERTIFICATE OF SERVICE

Susan Grimes-Zak states: I hereby certify that on February 26, 2010, I electronically filed the following documents with the Clerk of the Court using the CM/ECF system:

1. Reply In Support of Washington State Grange’s Motion to Strike Washington State Republican Party’s Supplemental and Amended Complaint; and

2. this Certificate of Service.

which will send notification of such filing to the parties listed below:

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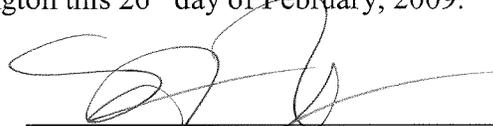
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I certify and declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed at Seattle, Washington this 26th day of February, 2009.



Susan Grimes-Zak