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**The Honorable John C. Coughenour**

**IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

WASHINGTON STATE REPUBLICAN  
PARTY, et al.,

Plaintiffs,

WASHINGTON DEMOCRATIC  
CENTRAL COMMITTEE, PAUL  
BERENDT,

Plaintiff Intervenors

LIBERTARIAN PARTY OF  
WASHINGTON STATE, RUTH  
BENNETT and J. S. MILLS,

Plaintiff Intervenors

v.

STATE OF WASHINGTON, et al.,

Defendants,

WASHINGTON STATE GRANGE, et  
al.

Defendant Intervenors

Case No: CV05-0927-JCC

LIBERTARIAN PARTY'S  
FIRST AMENDED COMPLAINT  
IN INTERVENTION FOR  
DECLARATORY JUDGMENT AND  
OTHER RELIEF

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**SUMMARY OF ACTION**

This is an action to protect the First and Fourteenth Amendment rights of the **Libertarian Party** and its adherents to assure access to the general election ballot for their nominated candidates and to advocate and promote their vision for the future without subtle or overt censorship or interference by the State through the County Auditors acting under color of the laws of the State of Washington. Initiative 872, the subject of challenge, is unconstitutional.

The Libertarian Party of Washington state ("the LP") seeks to intervene in the above entitled action to ensure its interests are properly and timely represented to this court. Initiative 872, adopted by Washington state voters in November 2004, was expressly intended to defeat the constitutional right of the LP and its adherents to nominate candidates without outside interference or voter confusion as recognized in *California Democratic Party v. Jones* 530 U.S.. 567, 120 S.Ct.. 2402, 147 l. ed. 2d 502 (2000)("Jones") and *Democratic Party of Washington v. Reed*, 343 F.3d 1198, 1204 (9<sup>th</sup> cir. 2003) *cert. denied* 540 U.S. 1213 (2004) ("Reed"). i-872 accomplishes this by claiming that the primary does not "nominate" candidates, but rather

1 "qualifies" them for the general election ballot. However, the partisan  
2 nature of the primary remains under I-872 and the political parties are  
3 deprived of their rights to nominate their own standard bearers and  
4 for their nominees to have access to the election ballot, as party  
5 nominees, in violation of the principles enunciated in *Williams v.*  
6 *Rhodes*, 393 U.S. 23 [1968] and *Anderson v. Celebrezze*, 460 U.S.  
7 780 [1983].

8  
9 Consequently, as applied in the 2008 elections, I-872  
10 deprives the LP of its ability to determine the political message it  
11 wishes to bring to the voters and further adds to voter confusion by  
12 removing assurances that the LP label actually means something. As  
13 applied in the 2008 election cycle, I-872 thus violates the LP's First  
14 Amendment rights of expressive association in any election in which  
15 its candidates participate and ultimately impoverishes the guarantees  
16 afforded by the First Amendment to the LP and the voters.  
17

18 More specifically, emergency rules implemented by the  
19 Washington Secretary of State on May 18, 2005, allegedly to  
20 implement I-872, administratively "repeal" statutes expressly  
21 authorizing the LP to nominate its candidates for the general election  
22 ballot by way of convention. Moreover, I-872 allows any candidate  
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1 regardless of the nature of his/her relationship to the LP or its  
2 philosophy to use the "Libertarian" label when running for office.

3 Further, as applied in the 2008 election cycle, the actual  
4 implementation of I-872 (including its interaction with the Washington  
5 State and federal campaign disclosure laws) will lead to voter  
6 confusion which will severely burden the right of freedom of  
7 association of the Libertarian Party and its members.  
8

## 9 **COMPLAINT**

### 10 **PARTIES**

11 1. The Libertarian Party of Washington State ("the LP") is  
12 a political party organized in 1972 for the purposes of promoting the  
13 political beliefs of its members, electing public officers who are  
14 members of the Libertarian Party, and in advocating principles and  
15 policies for operation of government affairs consistent with the  
16 libertarian philosophy.  
17

18 2. Ruth Bennett is a resident of the Western District of  
19 Washington and is Chair of the Libertarian Party of Washington State,  
20 elected pursuant to its Constitution and Bylaws. Ms. Bennett is the  
21 former Libertarian candidate for governor in the 2004 election and a  
22 qualified elector within the state of Washington.  
23



1 District and other parts of Washington. This court has jurisdiction  
2 under 28 U.S.C. §§ 1331, 1343, 2201 and 2202.

3 6. Venue properly lays before this court under 28 U.S.C. §  
4 1391.

5 **FACTUAL ALLEGATION**

6  
7 7. The First and Fourteenth Amendments of the United  
8 States Constitution guarantee individuals the right to associate in a  
9 political party, the right of a party to select its nominees for public  
10 office, the right of a party to determine the basis of selection and the  
11 right, upon a minimal showing of support, of access to the general  
12 election ballot.

13  
14 8. Initiative 872, as set forth in both Section 2 ("In the  
15 event of a final court judgment invalidating the blanket primary, this  
16 People's Choice Initiative will become effective...") and Section 18,  
17 was expressly intended to defeat the constitutional right of the LP and  
18 its adherents to nominate candidates, recognized by the U.S. Supreme  
19 Court in *Jones, supra, Reed, supra, Rhodes, supra, and Celebrezze,*  
20 *supra.*

21  
22 9. Under Initiative 872, as interpreted by the Secretary of  
23 State and implemented by the County Auditors, the primary is the  
24 only means by which the LP can advance its candidates to the general

1 election ballot. However, RCW 29A.52.112, adopted under I-872,  
2 states: "For partisan office, if a candidate has expressed a party or  
3 independent preference on the declaration of candidacy, then that  
4 preference will be shown after the name of the candidate on the  
5 primary and general election ballots ..." The same statute also  
6 provides that only the "top two" candidates receiving the most votes  
7 will advance to the general election. The Secretary has asserted that  
8 this means the top two candidates advance whether or not they are  
9 the same political party.  
10

11 10. I-872 was intended to force the LP to modify its  
12 message. The sponsors' official statement in support of the Initiative  
13 states, "Parties will have to recruit candidates with broad public  
14 support and run campaigns that appeal to all voters." This attempt at  
15 forced message modification was rejected as a legitimate state  
16 interest by both the Supreme Court in *Jones* and the Ninth Circuit in  
17 *Reed*.  
18

19 11. There is no material First Amendment difference  
20 between Initiative 872 and Washington's previous blanket primary  
21 system held unconstitutional by the Ninth Circuit. Indeed, the voter's  
22 pamphlet statement prepared by I-872's proponents stated "I-872 will  
23  
24

1 restore the kind of choice in the primary that voters enjoyed for  
2 seventy years with the blanket primary.”

3 12. Initiative 872 was explicitly intended to re-establish a  
4 partisan primary that facilitates cross-over and ticket-splitting voting,  
5 much like the “blanket primary” invalidated in *Reed*. While the  
6 circumstances of a particular election cycle may recommend cross-  
7 over votes or ticket splitting to the LP, the right to choose whether to  
8 allow it is a clear First Amendment right reserved to the LP. *Tashjian*  
9 *v. Republican Party of Connecticut*, 479 U.S. 208, 107 S.Ct. 544, 93  
10 L.Ed.2d 514, (1986), *Beaver v. Clingman*, 363 F.3d 1048, 120  
11 A.L.R.5th 707 (10th Cir. 2004), *cert. granted*, 125 S.Ct. 27, 159  
12 L.Ed.2d 857, (NO. 04-37). By limiting the choices of the LP to include  
13 or exclude voters the state is depriving the LP of its First Amendment  
14 right to determine the basis of its participation in the election process  
15 and its right of free association, or disassociation, with any particlaur  
16 candidate or message.  
17

18  
19 13. Other interests asserted as the basis for adopting I-  
20 872, codified as RCW 29A.04.206, are not legitimate grounds for  
21 invading the right of political association. See, *Reed*.

22  
23 14. RCW 29A.04.127 forces the LP to permit any voter to  
24 participate in selection of the LP’s standard-bearer without regard to

1 the voter's partisan affiliation or beliefs, and without the LP's  
2 permission. The State forces the LP and its adherents, without option,  
3 to associate with those who may not share their beliefs or whose  
4 beliefs may be antagonistic to them.

5 15. Historically (except for the 2002 and 2004 elections)  
6 the LP has nominated its candidates by convention as provided by  
7 prior state law. However, on May 18, 2005, the Secretary of State  
8 adopted emergency rules allegedly to implement I-872 that effectively  
9 preempted and eliminated existing statutory mechanisms (R.C.W. §§  
10 29A.20.110 through 29A.20.201) for the LP to exercise its right to  
11 nominate its candidates by convention, WAC 434-215-015. During the  
12 2008 general election, no method was provided by the Secretary for a  
13 any political party to clarify its platform and policy through those  
14 candidates denominated as members of that party.

15  
16  
17 16. I-872 contained a repealer section. But R.C.W.  
18 §§29A.20.110 through 29A.20.201 were not repealed by I-872, and  
19 remain valid law. The LP's right to nominate by convention was  
20 expressly recognized by the State in the blanket primary litigation, see  
21 the trial court pleadings in *Reed, supra*, as a device to help the LP  
22 protect its message from dilution and/or disbursal of voter support.  
23

1 ` 17. The Initiative, as implemented during the 2008 primary and  
2 general elections by State officials, eliminates mechanisms previously  
3 enacted by the State to protect the First Amendment rights of the LP  
4 and its adherents and provides no effective substitute mechanism for  
5 the LP to exercise its right to limit participation in the nomination  
6 process and thereby protect its adherents' right of association from  
7 forced dilution or its right to place its candidates on the election ballot.  
8

9 18. Because the LP is smaller and not as likely to run as  
10 many candidates as the Democratic or Republican Parties, the  
11 candidacy of an "imposter" (non-member candidate running under the  
12 Libertarian banner) or "renegade" (member of the LP running under  
13 the LP banner but without compliance with internal LP platform or the  
14 party nomination rules) in a highly publicized race could result in not  
15 only dilution or suppression of the LP message, but in wholesale  
16 redefinition of the message. I-872 provides no mechanism to protect  
17 the identity of the LP or its message and opens the door to confusion  
18 among the voters as to what the LP stands for.  
19

20 19. Neither the laws of the State nor the rules adopted,  
21 proposed or applied in 2008 by the Secretary provide any mechanism  
22 for the LP to effectively exercise its right of association in connection  
23 with the partisan primary in which it is forced by State law to  
24

1 participate. Any individual candidate may appropriate the LP's name,  
2 regardless of whether the LP desires affiliation with that person.

3 20. I-872 deprives the LP of its proprietary right to the use  
4 of the party name, thus leading to voter confusion regarding which  
5 candidate(s) are speaking for the party and which are imposters or  
6 renegades appropriating the party name for their own purposes. The  
7 name "Libertarian Party" is a nationally trademarked name and  
8 therefore may be used by candidates only with LP consent.  
9

10 21. The risk of imposter or renegade candidates also  
11 increases the risk of splintered parties and unrestrained factionalism,  
12 which interest the US Supreme Court has deemed compelling enough  
13 to justify denying an otherwise qualified candidate a place on the  
14 general election ballot. *Storer v. Brown*, 415 U.S. 724 (U.S., 1974).  
15 There is no logical reason why an interest articulated by a state and  
16 recognized by the Supreme Court as a compelling interest, should  
17 suddenly lose its compelling character because a political party  
18 articulates the same interest.  
19

20 22. The Libertarian Party of Washington State has adopted  
21 rules governing the nomination of its candidates and prohibiting  
22 persons who are not members of the LP from indicating an affiliation  
23 with the LP when declaring a candidacy for public office.  
24

1           23. The conduct of any partisan primary by State officials  
2 without implementation of an effective mechanism for the LP to  
3 exercise its right to determine participation in connection with that  
4 primary according to the rules of the LP is an action by those State  
5 officials under law and color of law that deprives Plaintiffs of their civil  
6 rights.

7           24. The State, through its filing statute, compels the LP to  
8 associate with any person who files a declaration of candidacy  
9 expressing a "preference" for the LP, regardless whether the LP  
10 desires association with the person or believes that person best  
11 articulates the LP's chosen temporal message for that election cycle.  
12 The LP and its adherents are irreparably injured by the forced  
13 adulteration of the LP's nomination process and the risk of diluted or  
14 disbursed support for the LP message.

15           25. Dilution and/or dispersal of the LP vote in any partisan  
16 primary carries with it the risk that no LP candidate will obtain enough  
17 votes to advance to the general election ballot. For example, if six  
18 candidates carrying the LP name each receive 10% of the vote at a  
19 partisan primary, and one candidate of each of the other parties  
20 receives 20%, the Secretary maintains there would be no LP candidate  
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1 on the general election ballot, despite the receipt by LP candidates of  
2 60% of the total vote.

3 26. The Fourteenth Amendment equal protection and due  
4 process clauses guarantee reasonable access for minor party and/or  
5 independent candidates to a general election ballot before the  
6 electorate so that they may present their platform. "The right to form  
7 a party for the advancement of political goals means little if a party  
8 can be kept off the election ballot and thus denied an equal  
9 opportunity to win votes. So also, the right to vote is heavily burdened  
10 if that vote may be cast only for one of two parties at a time when  
11 other parties are clamoring for a place on the ballot." *Williams v.*  
12 *Rhodes, supra, at* . Similarly, the right to freedom of speech and  
13 association are unreasonably burdened when the state permits any  
14 candidate to claim the benefits of "party affiliation" without the  
15 authorization of that party or interest group. Such a practice creates a  
16 high probability that voters will be confused or misled regarding the  
17 platform and positions of a given party or political group.  
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20 27. "States may condition access to the general election  
21 ballot by a minor-party or independent candidate upon a showing of a  
22 modicum of support among the potential voters for the office." *Munro*  
23 *v. Socialist Workers Party*, 479 U.S. 189, 193, 107 S.Ct. 533,  
24

1 536 (1986), but no state may require a minor party or independent  
2 candidate to show support of more than 5% of the voters to be placed  
3 on the general election ballot. Compare, *Rhodes, supra*, to *Jenness v.*  
4 *Fortson*, 403 U.S. 431, 91 S.Ct. 1970, 29 L.Ed.2d 554 (1971). I-872  
5 requires the minor party or independent candidate to receive at least  
6 the second highest number of votes to advance to the general election  
7 ballot, a threshold that amounts to a moving target, dependent on the  
8 number of candidates for a particular office as well as other variables  
9 completely outside the minor party or independent candidate's control.  
10 This threshold is thus arbitrary and a denial of due process rights for  
11 LP candidates.  
12

13 28. After the passage of I-872, defendant Secretary of  
14 State requested the Legislature adopt legislation implementing I-872.  
15 At the Secretary's request HB 1750 and SB5745 were introduced in  
16 the 2005 session of the legislation. The Secretary's proposed  
17 implementation would have amended RCW 29A.36.121(3) to eliminate  
18 provisions of the statute relating to nomination by minor parties but  
19 proposed to re-enact the first sentence of the section to read: "The  
20 political party or independent candidacy of each candidate for partisan  
21 office shall be indicated next to the name of the candidate on the  
22 primary or general election ballot." The Secretary also proposed  
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1 emergency regulations, WSR 05-11-101, which provided that on the  
2 ballot form to be used "the party preference or independent status of  
3 each candidate shall be listed next to the candidate." WSR 05-11-101  
4 at WAC 434-230-170

5 29. As a direct result of this litigation challenging the  
6 proposed implementation and this Court's decision that the I-872 is  
7 unconstitutional, defendants repealed their proposed implementation  
8 of I-872 in 2005, including the form of ballot that defendants proposed  
9 to use. Thereafter, defendants argued to appellate courts that the  
10 form of ballot was not known and that it might not be the form upon  
11 which the District Court's determination that I-872 is unconstitutional  
12 had been based.  
13

14 30. In 2006, by more than two-thirds vote, the  
15 Washington Legislature reviewed and amended various election  
16 statutes. Among other things, the Legislature changed Washington's  
17 primary election date to August. In 2007 the Washington adopted a  
18 requirement that all partisan primary ballots contain a statement that  
19 a voter may only vote for candidates of one party. To the date of this  
20 pleading, the Legislature has not amended RCW 29A.36.121(3) and its  
21 first sentence continues to read: "The political party or independent  
22 candidacy of the each candidate for partisan office shall be indicated  
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1 next to the name of the candidate on the primary and election ballot.”

2 31. In May 2008, two weeks prior to the commencement  
3 of filing of candidacies for the 2008 election the Secretary adopted  
4 emergency regulations implementing I-872, although this Court had  
5 not been requested to modify or vacate its injunction barring the  
6 Secretary from implementing I-872. In his 2008 emergency  
7 implementation the Secretary ignored RCW 29A.36.121(3)'s  
8 requirement that partisan primary ballots list the political party or  
9 independent status of each candidate next to the name of the  
10 candidate. The Secretary also ignored the requirements of RCW  
11 29A.24.030 (as amended by I-872) that for partisan offices  
12 declarations of candidacy must include a place for the candidate to  
13 indicate his or her major or minor party preference or independent  
14 status. Instead, the Secretary implemented forms that had no place to  
15 indicate independent status, only a box with which to decline to state  
16 a preference. Similarly the Secretary's emergency regulations did not  
17 indicate the independent status of candidates but instead indicated  
18 that the candidate had declined to state a preference.  
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21 32. As part of their implementation of Initiative 872,  
22 defendants have ignored, on the basis that they are impliedly  
23 repealed, numerous valid statutes of the State of Washington. The  
24

1 repeal of these statutes, or portions thereof, by implication if Initiative  
2 872 were to pass was not disclosed to the voters in connection with  
3 Initiative 872.

4 33. Washington's Public Disclosure Commission also  
5 adopted regulations implementing I-872. In particular, the PDC  
6 adopted WAC 390-05-274 declaring that the terms "party affiliation,"  
7 "political party," "party" and "political party affiliation" when used in  
8 RCW 42.17, WAC 390 or on forms adopted by the PDC meant a  
9 candidate's self-identified party preference. In addition, the PDC  
10 adopted a new brochure in July 2008 providing information to  
11 campaign advertising sponsors advising sponsors with respect to  
12 compliance with RCW 42.17.510's requirement that political  
13 advertising and communications must clearly identify a candidate's  
14 party or independent designation, as indicated by his or her statement  
15 of preference on the declaration of candidacy. The PDC brochure  
16 indicated that "Official symbols or logos adopted by the state  
17 committee of the party may be used in lieu of other identification."  
18 The PDC brochure also advised advertisers that the traditional  
19 abbreviations for political parties could be used to indicate the  
20 candidate's party.  
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24 34. Election coverage both before and after the primary

1 made no distinction between which candidates were authorized to use  
2 a party's name and candidates who did so without authorization. The  
3 practical effect of I-872 was to confuse voters about which candidates  
4 actually supported the party and its objectives and candidates who  
5 had appropriated the party name for their own political advancement.

6 35. Subsequent to defendants' implementation of I-872,  
7 state officials, voters and the press treated a candidate's statement in  
8 his or her declaration of candidacy that he or she prefers a given  
9 political party as indicating that he or she is associated with that  
10 party. The absence of any opportunity for any party to object to  
11 association with a candidate, the association of the candidate with that  
12 party on ballots and in voter's pamphlets, the requirement that all  
13 advertising referring to a candidate treat the candidate's party  
14 preference statement as indicating the candidate's party affiliation, the  
15 encouragement by State to candidates and advertisers to make  
16 unauthorized use of a party's symbols and logos, and the  
17 characterization by state officials of candidates of a given party based  
18 on party preference statements under I-872, all create a forced  
19 association with candidates regardless of the party's desires. As a  
20 result of the implementation of I-872 by the defendants, voters are  
21 confused about which candidates on the ballot are truly representative  
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1 of and associated with any given party and which have merely  
2 appropriated the party name for personal electoral advantage – to the  
3 detriment of the party, its candidates, programs and message.

4 **FIRST CAUSE OF ACTION: DECLARATORY JUDGMENT**

5  
6 36. Plaintiffs reallege and incorporate by reference  
7 Paragraphs 1-35.

8 37. An actual controversy exists between Plaintiffs in  
9 Intervention and Defendants regarding federally protected rights.  
10 Plaintiffs are entitled to declaratory judgment establishing the  
11 unconstitutionality of the State’s primary system.

12  
13 38. R.C.W. § 29A.24.031 and newly promulgated WAC  
14 434-215-015 are unconstitutional to the extent they, or either of  
15 them, allow any person who wishes to be a candidate to appropriate  
16 the Libertarian Party label without compliance with the LP nomination  
17 rules.

18  
19 39. R.C.W. §§29A.20.110 through 29A.20.201 were not  
20 repealed by I-872, and remain valid law. The Secretary of State was  
21 not entitled to override them by emergency rule.

22  
23 40. The LP is constitutionally entitled to nominate its  
24 standard bearers for election to public office by convention and/or

1 caucus without substantive interference from the State and/or the  
2 Defendant County Auditors.

3 41. Initiative 872 is unconstitutional to the extent it  
4 deprives the LP of the right to determine who may participate in the  
5 nomination or selection of its standard bearers.

6 42. Initiative 872 is unconstitutional to the extent it  
7 requires the LP to ~~demonstrate any more than a "modicum of support"~~  
8 ~~for advancing to the general election ballot.~~ to accept candidates who  
9 have not been endorsed by the party.  
10

11 43. Initiative 872 lacks a severability clause. Therefore, if  
12 any portion of I-872 is unconstitutional, the entire enactment is void.

13 44. Pursuant to 42 U.S.C. § 1983 *et seq.*, Plaintiffs in  
14 Intervention are entitled to a declaratory judgment regarding their  
15 civil rights and to their reasonable attorneys' fees and costs in this  
16 case.  
17

18 **SECOND CAUSE OF ACTION: INJUNCTIVE RELIEF**

19 45. Plaintiffs reallege and incorporate by reference  
20 Paragraphs 1-44 above.  
21

22 46. There exists an imminent and ongoing threat by State  
23 officials to deprive Plaintiffs in Intervention of their civil rights by  
24 requiring Plaintiffs to select the nominees of the LP through a primary

1 process in which Plaintiffs are not permitted to exercise their First  
2 Amendment rights of association and exclusion.

3 47. Plaintiffs will suffer irreparable injury if the LP's  
4 nominee is selected in a primary in which the LP is deprived of its right  
5 to define participation in that primary.

6 48. Plaintiffs are entitled to preliminary and permanent  
7 injunctive relief restraining State officials from:

8 a) conducting any partisan primary without  
9 affording the LP reasonable opportunity in advance of any election to  
10 exercise its right to define which candidates are allowed to participate  
11 in that election as Libertarian candidates , by voters and by  
12 candidates, and including whether the LP wishes to participate in a  
13 primary;  
14

15 b) conducting any partisan election without  
16 implementing a reasonable mechanism to effectuate the LP's exercise  
17 of its right to limit participation in that election to candidates who are  
18 current members of the LP;  
19

20 c) encouraging or facilitating, directly or indirectly,  
21 cross-over voting or ticket-splitting in connection with any partisan  
22 election except to the extent expressly authorized by the LP for that  
23 election .  
24

1 49. Plaintiffs are entitled to their reasonable attorneys'  
2 fees and costs in connection with this action pursuant to 42 U.S.C. §  
3 1983 *et seq.*

4 **PRAYER FOR RELIEF**

5 Plaintiffs respectfully request the Court enter judgment:

6 1. Declaring R.C.W. § 29A.24.031 and newly promulgated  
7 WAC 434-215-015 unconstitutional.

8 2. Declaring that R.C.W. §§29A.20.110 through  
9 29A.20.201 remain valid law and ordering the defendants to place on  
10 the general election ballot any candidate who complies with their  
11 provisions.  
12

13 3. Declaring that the LP is entitled to nominate its  
14 standard bearers for election to public office by convention and/or  
15 caucus without substantive interference from the State and/or the  
16 Defendant County Auditors.  
17

18 4. Declaring Initiative 872 unconstitutional to the extent it  
19 deprives the LP of the right to determine who may participate in the  
20 nomination of its standard bearers.

21 5. Declaring Initiative 872 unconstitutional in its entirety  
22 because it lacks a severability clause.  
23

1           6. Preventing State officials from depriving the LP and its  
2 adherents of their civil rights by permitting strangers to use the  
3 designation of the Libertarian Party denying the LP and LP members  
4 their First Amendment rights of association and exclusion.

5           7. Grant Plaintiffs preliminary and permanent injunctive  
6 relief restraining State officials from:

7                   a) conducting any partisan primary without  
8 affording the LP reasonable opportunity in advance of that primary to  
9 exercise its right to define its participation in that primary, by voters  
10 and by candidates, and including whether the LP wishes to participate  
11 in a primary or alternatively nominate its candidates to the general  
12 election ballot by convention or caucus;

13                   b) conducting any partisan election without  
14 implementing a reasonable mechanism to effectuate the LP's exercise  
15 of its right to limit participation in that election to candidates who are  
16 current members of the LP;

17                   d) encouraging or facilitating, directly or indirectly, cross-  
18 over voting or ticket-splitting in connection with any partisan election  
19 except to the extent expressly authorized by the LP for that election .  
20

21           8. Awarding Plaintiffs reasonable attorneys' fees and costs  
22 in connection with this action pursuant to 42 U.S.C. § 1983 *et seq.*  
23  
24

1                   9. Granting such further relief as the Court deems  
2 appropriate, including leave to amend these pleadings as discovery  
3 proceeds.

4                   DATED: Tuesday, May 04, 2010, at Woodburn, Oregon.

5  
6                   ORRIN L. GROVER, P.C.  
7                   /s/ Orrin L. Grover  
8                   ORRIN L. GROVER, OSB NO. 78010

9                   Attorney for Plaintiff Intervenors  
10                  Appearing Pro Haec Vice  
11                  LIBERTARIAN LP OF WASHINGTON  
12                  STATE, RUTH BENNETT, and J. S. MILLS  
13                  Email: orrin@orringrover.com

14                  \_\_\_\_\_  
15                  /s/John S. Mills  
16                  JOHN S. MILLS, WSBA #15842  
17                  Attorney for Plaintiff Intervenors  
18                  LIBERTARIAN LP OF WASHINGTON  
19                  STATE, RUTH BENNETT, and J. S. MILLS  
20                  Email: jmillslaw@gmail.com

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VERIFICATION OF COMPLAINT

I, J. S. MILLS, declare on penalty of perjury under 28 U.S.C. § 1746 that I am a Plaintiff in the above entitled matter. I have reviewed the facts alleged in the foregoing complaint and certify the same are true and correct to be best of my knowledge and belief.

Dated this 4<sup>th</sup> day of May 4, 2010, at Tacoma, Washington.

/s/John S. Mills  
J. S. MILLS, Plaintiff