

EXHIBIT F

1 APPEARANCES

2 On Behalf of Plaintiffs Washington State Republican Party:

3 JOHN J. WHITE
4 Livengood Fitzgerald & Alskog
5 121 Third Avenue
6 Kirkland, Washington 98083
7 white@lfa-law.com

8 On Behalf of Plaintiff Intervenor Washington State Democratic
9 Central Committee:

10 EMILY D. THROOP
11 K&L Gates
12 925 Fourth Avenue
13 Suite 2900
14 Seattle, Washington 98104-1158
15 emily.throop@klgates.com

16 On Behalf of Plaintiff Intervenor Washington State Libertarian
17 Party:

18 ORRIN L. GROVER
19 Attorney at Law
20 416 Young Street
21 Woodburn, Oregon 97071
22 orrin@orringrover.com

23 On Behalf of Defendant Intervenor State of Washington:

24 ALLYSON ZIPP
25 JAMES K. PHARRIS
Deputy Solicitors General
1125 Washington Street S.E.
P.O. Box 40100
Olympia, Washington 98504-0100
sgoolyef@atg.wa.gov

On Behalf of Defendant Intervenor Washington State Grange:

THOMAS F. AHEARNE
Foster Pepper
1111 3rd Avenue
Suite 3400
Seattle, Washington 98101-3299
oklad@foster.com

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Exhibit	Description	Page
No. 1	2-page document entitled WSRP Policy Statement, Number 98-1, Dated 5/16/98, Revised 7/12/08.	14
No. 2	1-page document, nomination rules for the Washington State Republican Party for 2010.	76
No. 3	9-page document entitled Rules for the Nomination of Republican Candidates Adopted September 24, 2005.	78
No. 4	5-page document entitled Working Draft for Consideration by the Rules Committee, Rules and Order of Business, Republican State Convention, June 12, 2010, Vancouver, Washington.	80

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1 LUKE ESSER, having been first sworn
2 under oath by the Notary,
3 testified as follows:
4

5 EXAMINATION

6 BY MS. ZIPP:

7 Q Good morning, Mr. Esser. I'm Allyson Zipp.

8 Would you state your name and spell your last name for
9 the record, please?

10 A My full name is Luke Edward Esser. The last name is spelled
11 E-S-S-E-R.

12 Q Now, Mr. Esser, you were just sworn to tell the truth by the
13 court reporter; is that correct?

14 A Yes, it is.

15 Q Have you had your deposition taken before?

16 A I've had a telephonic deposition taken before.

17 Q So you're familiar with the form. Basically the deposition
18 is going to be questions and answers on the record. It can
19 be used at trial, particularly if you testify at trial. A
20 transcript will be made and you will have a chance to review
21 it before signing it.

22 Because the court reporter is transcribing what we're
23 saying it's very important that you wait to begin your
24 answer until I've finished my question. I will, likewise,
25 wait until you've finished your answer until I start my next

1 question.

2 If you don't understand a question, please ask for
3 clarification. If you do answer a question I'm going to
4 assume that you understood it. Saying that you don't know
5 the answer is fine. Please make your answers verbal.

6 Your attorney may object to a question to make a
7 record. Unless you're instructed not to answer, please go
8 ahead and answer the question.

9 Okay. Let's begin with some background.

10 Mr. Esser, are you a resident of Washington?

11 A I am a resident of Washington, yes.

12 Q What city and county?

13 A Bellevue, King County.

14 Q How long have you been a resident of Washington?

15 A My entire life.

16 Q And how many years is that?

17 A 48 for a few more weeks.

18 Q Okay. Do you regularly vote in state elections?

19 A I do, yes.

20 Q For how many years have you been regularly voting?

21 A Since I turned 18.

22 Q What is your education after high school?

23 A After high school I attended the University of Washington
24 and earned bachelor's degrees in the business school and in
25 the communications department of the School of Arts and

1 Sciences, and following graduation there attended and
2 graduated from the University of Washington Law School.

3 Q What is your current employment?

4 A I am the chairman of the Washington State Republican Party.

5 Q And how long have you been doing that?

6 A Since January of 2007.

7 Q How were you selected for that position?

8 A The chairman of the State Party is chosen in a January
9 meeting every odd-numbered year by the State Committee of
10 the Republican Party, a majority vote of the State
11 Committee.

12 Q And for how long will you hold -- how long is your term?

13 A Two-year terms.

14 Q Okay. What was your work history before becoming Chair of
15 the Republican Party?

16 A Well, I had been a state legislator for eight years.
17 Immediately preceding that I had been a state representative
18 for four years in the 48th Legislative District, and then a
19 state senator for four years in the 48th Legislative
20 District. I had also worked for about a decade as an aide
21 to Rob McKenna at the King County Council, and then also for
22 a couple years at the Attorney General's Office. And had
23 been a party activist for many years, had been a precinct
24 committee officer and volunteer for many Party activities
25 going back to my teenage years.

1 Q So is it fair to say that after your time working for the
2 State Attorney General's Office you have been employed as --
3 in politics?

4 A That is fair to say. Since January of 2007 I have been a
5 full-time employee of the Washington State Republican Party
6 as Chairman.

7 Q And prior to that you were a state political representative
8 in some capacity or other, and preceding that an aide to a
9 politician/King County councilperson?

10 A Yes, that's correct.

11 Q Do you consider yourself -- oh, do you consider yourself to
12 be a member of the Republican Party?

13 A Absolutely, yes.

14 Q When did you become a member?

15 A In my mind, I became a member when I decided to participate
16 in the precinct caucus of 1980 for the Republican Party. It
17 was a long time ago, but since then I have continued to
18 attend those precinct caucuses and do other activities which
19 I think have validated that membership.

20 Q And you say in your mind. So --

21 A Yeah.

22 Q -- would you say that the process of becoming a member was
23 the decision to consider yourself to be a member?

24 A Well, when I say "in my mind," I'm not sure what the rules
25 were in 1980 at the State Party, what they considered to be

1 membership. I'm familiar with what our rules are today, but
2 I certainly -- that was the point for me at which I
3 considered myself to be a member of the Party.

4 Q You mentioned -- I know that you're the Chair now.

5 A Correct.

6 Q Have you held other positions in the Party in the past?

7 A I've been an elected precinct committee officer for many
8 years. I was elected first in 1980. It has not been -- I
9 have not been a nonstop elected precinct committee officer
10 since then, but I have been in recent years as well. So for
11 much of the last 30 years I've been an elected precinct
12 committee officer for the Party at precincts in Bellevue.

13 Q Any offices besides precinct committee officer?

14 A I've had various positions within the 48th Legislative
15 District Party organization. I was the yard sign chair for
16 a while and the newsletter chair for a while and other
17 volunteer capacities.

18 Q Turning to your position as the Chair of the Republican --
19 the State Republican Party, what is the scope of your
20 responsibilities in that role?

21 A Well, the chairman is the CEO, the Chief Executive Officer,
22 for the State Republican Party. So the responsibilities
23 range from helping to develop the political plans for the
24 Party, the fund-raising plans for the State Party,
25 communicating the message of the Party, helping candidates

1 to get elected. I'm the presiding officer at our State
2 Committee meetings. So a lot of responsibilities, among the
3 ones I just mentioned.

4 Q What materials did you review in preparation for this
5 deposition?

6 A I took a look at our rules on the nomination of candidates
7 and on the membership of the Republican Party.

8 Q Did you happen to bring those with you?

9 A I did not.

10 Q Okay. We'll talk about them later. I may have them from
11 John. We'll see.

12 A Okay.

13 Q So I'd like to understand some more about how the Washington
14 State Republican Party operates.

15 What is the Party organization on the state level? How
16 is the Party decision-making structure organized?

17 A The State Committee, which is the ultimate governing body
18 for the State Party, is composed of three members each from
19 the 39 counties of the State of Washington. There is a
20 county chair, a state committeeman, and a state
21 committeewoman from each of the 39 counties. And they
22 comprise the State Committee, which is the governing body
23 for the State Party.

24 Q How are those persons selected?

25 A They are elected by the precinct committee officers from

1 their county at organizing meetings held in December of
2 even-numbered years or January of odd-numbered years.

3 Q Is it the State Committee that makes policy for the Party?

4 A That is correct.

5 Q Are there any groups within the State Committee that have
6 discrete responsibilities?

7 A Well, we have an Executive Committee that is a smaller group
8 that has been granted the authority by the State Committee
9 to take actions in between the three annual meetings of the
10 State Committee. And that's a group with -- I think it's 23
11 voting members, a smaller group that we can call together on
12 shorter notice should we need to take actions in between
13 these three large meetings of the entire State Committee we
14 hold every year.

15 Q What sorts of actions is that group empowered to take?

16 A They are granted by our bylaws with all of the powers that
17 the State Committee has in between meetings of the State
18 Committee.

19 Q In addition to the Executive Committee are there any other
20 smaller discrete groups that have --

21 A Well, we have committees within the State Committee to
22 review certain topic areas and make recommendations, either
23 to that Executive Committee or to the full State Committee.
24 We have a resolutions committee and a bylaws committee; we
25 have some standing committees, plus also ad hoc committees

1 will be formed for certain topics as well.

2 Q If you know, how is the Party organized on the local level?

3 A Well, the building block is the precinct committee officers.

4 They are the elected representatives of the party at the

5 smallest geographical level. And they are the ones who --

6 they're kind of the base of the pyramid that elect those

7 officials at the county level who become the State Committee

8 members, who elect all of the statewide officers of the

9 Party.

10 Q Is there a county level party organization that fills

11 functions other than to send people to the State Committee?

12 A Yes. Each county has its own structure of -- in addition to

13 the county chair and the state committeeman and the state

14 committeewoman, there are other officers and officials. And

15 they conduct business for local and county Republican

16 political activities in their county.

17 Q Is each county organized in the same pattern or is that up

18 to the individual counties?

19 A We allow them to choose their own rules for organization.

20 Q Is there also organization by legislative district or is

21 there only at the local level, the county local level?

22 A There are some decisions made by legislative district. The

23 Party structure that leads up to the State Committee is all

24 by county level, but when decisions need to be made within a

25 legislative district boundary, for example if there's a

1 legislative vacancy, then there are special meetings
2 conducted just of the precinct committee officers from that
3 county. So that the usual structure is based on county, but
4 depending on circumstances we will have, sometimes, items
5 structured by the legislative district level.

6 Q And when such a decision has to be made, who calls that
7 meeting of the legislative district?

8 A As Chairman of the State Party, I do.

9 Q Does the State Party have members?

10 A Yes, we do.

11 Q What is the process to become a member of the State Party?

12 A Well, we have a policy that defines membership. And there's
13 some different ways to become a member. If you donated
14 money to us in the last four years at the State Party we
15 consider you a member. If you're an elected Republican PCO
16 we consider you a member. If you're a member of the State
17 Committee we consider you a member.

18 The largest grouping comes about --

19 We have some language about -- I forget the specific
20 language, but if somebody makes an affirmative step to show
21 they're a member.

22 The largest number of members come from those who've
23 made a declaration on our Presidential Primary that they are
24 a member of the Republican Party. That's the biggest
25 grouping we get. And frankly there's a lot of overlap

1 between that one and the other categories, too.

2 Q Are those the only ways to be a member, to become a member?

3 A Those are among the members. I didn't memorize the rules,
4 so I'm sure there's some other items there I'm probably not
5 recollecting.

6 Q Well, and I think -- let's see.

7 MS. ZIPP: Would you mark this as an exhibit,
8 please?

9 (Exhibit No. 1 marked.)

10 Q (By Ms. Zipp) Mr. Esser, I've handed you a document marked
11 Exhibit 1. Do you recognize it?

12 A Yes, a two-page document. The top page appears to be our
13 current policy statement on membership in the State Party,
14 and Page 2 appears to be an older version of that policy.

15 Q A moment ago you told me you reviewed the membership rules
16 in preparation for this deposition. Is this the document
17 that you were referring to as the membership rules?

18 A Yes, it is.

19 Q Is this document --

20 So let's focus first on the page that is numbered Page
21 33. It's also identified WSRP-RFP000185.

22 A It says 183 on the bottom of mine, just for informational
23 purposes.

24 Q Ah. I have one that says 183 as well.

25 A Okay.

1 Q I think it's the same document.

2 Is this your current -- is this the Party's current
3 membership rules?

4 A This appears to be the current Party membership rules.

5 MR. AHEARNE: If I can interrupt, we're talking
6 about Document 183?

7 MS. ZIPP: Yes.

8 THE WITNESS: That's what it says here on the
9 bottom right, WSRP-RFP000183.

10 MR. AHEARNE: Thank you.

11 Q (By Ms. Zipp) Is this the complete policy of the Party
12 regarding membership?

13 A This is.

14 Q Is there any unwritten policy regarding membership that
15 supplements this as far as you know?

16 A I'm not sure I understand the question.

17 Q In addition to this written policy are there any other Party
18 policies, whether written or unwritten, that govern
19 membership in the Party?

20 A This is the policy.

21 Q Okay.

22 A This is the document that would be used to determine Party
23 membership.

24 Q So looking at No. 3 on this, it says, "An individual who has
25 contributed to the WSRP in the last four calendar years is a

1 member."

2 A That is what it says, yes.

3 Q Could a person contribute to another party and still be a
4 member of the Washington State Republican Party?

5 A That is possible.

6 Q No. 4 says, "Party members self-described as Republicans
7 based on Voter Vault identification programs."

8 Explain to me what the Voter Vault identification
9 program is.

10 A That's a program whereby we have volunteers call or knock on
11 doors to talk with voters who we don't have a voter
12 identification for, that we don't know whether they're
13 Republican or Democrat or even Independent usually. And so
14 we'll have volunteers contact them and ask them whether
15 they're -- do they vote Republican all the time, Republican
16 more than Democratic, Democrat more than Republican, or
17 Democrat all the time. And that's the process of that
18 identification program.

19 Q And do I understand correctly that if someone is contacted
20 and says during that interview, "I am a Republican," they
21 would qualify as a member based on being self-described as a
22 Republican?

23 A If they say, "I vote Republican all the time" or "more than
24 I vote Democrat," the answer is yes.

25 Q No. 6 on this list says, "Other individuals who have

1 affirmatively stated their intentions to become members of
2 the Washington State Republican Party and who have
3 demonstrated support of the Party, its candidates, and
4 programs."

5 So that's a basis to become a member.

6 A Yes.

7 Q How must someone affirmatively state their intentions to
8 become a member under this requirement?

9 A Well, that's a matter of some discretion for the State Party
10 Chairman. The two -- excuse me, the largest category for us
11 is the Presidential Primary where individuals declare that
12 they are a member of the Republican Party as part of the
13 process of having their vote counted in the Presidential
14 Primary every four years. So that's the major category
15 under which that language is applied.

16 Q Are there other ways?

17 A There may be. I can't think of any at the moment, but that
18 language is intended to provide opportunities for people to
19 affirmatively state or declare their party membership in
20 ways beyond those that are specifically delineated here.

21 Q Is it the intent of the policy that that be a public
22 declaration?

23 A Not necessarily. Not necessarily.

24 Q The second part of that sentence says, "And who have
25 demonstrated support of the Party, its candidates, and

1 programs."

2 How must one demonstrate support to satisfy that
3 requirement?

4 A To -- you know, to my mind, that support is demonstrated by
5 the willingness to make a formal declaration. It could be
6 made in other ways as well, but to my mind that would
7 certainly meet that -- the requirement of that language.

8 Q So support is a verbal statement of support?

9 A That's one method by which someone could do that. It could
10 be accomplished by other means. The verbal or written
11 declaration is the one that we use most commonly.

12 Q "Support of the Party, its candidates, and programs."

13 Is it sufficient to support -- make a statement of
14 support for the Party without going beyond that to
15 candidates and programs?

16 A To my mind it's pretty interrelated, I guess. I've never
17 tries to parse it that finely.

18 Q So to support the Party is to support its candidates? Is
19 that what you mean?

20 A What I mean is that usually when people make some sort of
21 affirmative statement, it may not be precise in every
22 element that's mentioned there, but looking at the totality
23 of the declaration or the circumstances, I think that's the
24 main thing to be looked at.

25 Q If someone were to support a candidate, solely a candidate,

1 without making a statement of support to the Party, would
2 that be enough?

3 A It would depend on all the circumstances. I haven't judged
4 a particular case like that yet, so I -- it would depend on
5 all the circumstances.

6 Q Do you judge cases of membership?

7 A Usually not on individual matters. And largely that's a
8 matter of time, you know, risk -- not risk versus reward,
9 but time versus reward. It's easier for us to utilize the
10 larger volume you get from a large declaration, like at the
11 Presidential Primary, rather than trying to judge a
12 particular instance here or there.

13 Q Have you had occasion to judge particular instances of
14 membership?

15 A I have -- not in context of that language, no.

16 Q In the context of these rules at all?

17 A Not that I can recall.

18 Q Okay. Is there a process in place to judge whether someone
19 is a member or not of the Party?

20 A Well, we have -- the State Committee and the Executive
21 Committee, which came up with these rules, have -- you know,
22 since they're the body that came up with the rules, they
23 would have the authority to modify them in any way they
24 choose. They've not chosen to do so in the three and a half
25 years that I've been State Party Chairman. So that sort of

1 process has not taken place, but the State Committee
2 certainly has the authority to do so.

3 Q So as it stands, there is a policy defining who is a member.

4 A Right.

5 Q Does this policy, by implication, define who is not a
6 member?

7 MR. WHITE: I'll object to the form of the
8 question.

9 Q (By Ms. Zipp) Does the Party have a policy that defines who
10 is not a member?

11 A We do not. We only have the policy that defines who is a
12 member of the Party.

13 Q Is there a process for revoking membership in the State
14 Republican Party?

15 A For our State Committee we do have a provision in our bylaws
16 where someone can be removed from the State Committee if
17 they fail to support Republican candidates. In terms of
18 membership, there's no formal language. But the State
19 Committee certainly has the authority to take any such
20 action like that since they're the body that created these
21 rules in the first place.

22 Q To your knowledge, has such action ever been taken?

23 A I can only speak to the three and a half years I've been
24 State Party Chairman, and to my knowledge that has not
25 occurred in that time frame. Before then I'm just not

1 certain.

2 Q You just mentioned that the State Committee in the bylaws --
3 if I understood, in the bylaws there is a process to remove
4 someone from the State Committee if they don't support
5 Republican candidates.

6 A If they support a candidate against a Republican candidate
7 in a general or special election.

8 Q Has that provision been employed?

9 A Not in the three and a half years that I've been State Party
10 Chairman.

11 MS. ZIPP: May I get a copy of the bylaws? Have
12 you provided us with a copy of the bylaws?

13 MR. WHITE: I think we did.

14 MS. ZIPP: Okay. I'll check.

15 MR. WHITE: If we haven't we'll get it to you.

16 MS. ZIPP: Okay.

17 Q (By Ms. Zipp) Is the sole basis for removing someone from
18 the Committee support of a candidate against the Republican
19 candidate?

20 A That's the -- my recollection is that's the sole listed
21 means, though again I -- the State Committee I think has the
22 authority to modify those bylaws should they find reason to
23 do so. But that's the listed reason in the bylaws as of now
24 that I recall.

25 Q Okay. Does the State Republican Party adopt an official

1 platform?

2 A We do. In the summer of even-numbered years we have a state
3 convention at which we adopt a platform.

4 Q How is it developed?

5 A There's a committee that's formed that has one platform
6 representative from every county. Each county party
7 designates one person to be their representative on the
8 platform committee for the state convention. And they meet
9 and deliberate and discuss, and they prepare a draft
10 proposed platform that's presented to the convention body
11 for their consideration and possible amendment and then
12 adoption.

13 Q Is there a national Republican Party platform?

14 A Every four years -- only in presidential years is there a
15 Republican National Convention at which there is a platform
16 adopted.

17 Q What, if any, is the relationship between the state platform
18 and the national platform?

19 A Well, the relationship is largely through the representation
20 from the State Party. In the same way that we have the one
21 representative from each county for the platform committee
22 for the state convention, at the national convention there's
23 two representatives from every state plus six territories
24 and possessions that have membership on the platform
25 committee for the national convention which, by a similar

1 process, meets and develops a proposed platform that is
2 presented at the convention for their consideration,
3 possible amendment, and adoption.

4 Q Does the national platform control what is on the state
5 platform?

6 A Well, it's -- it's developed afterwards. The national
7 convention always comes after all the state conventions. So
8 I -- since it comes later I'm not sure I could control it.

9 Q Well, but if I understand correctly --

10 A Yeah.

11 Q -- a national platform is created every four years.

12 A Correct.

13 Q And then two years later there's going to be a state
14 platform --

15 A (Witness nodding head.)

16 Q -- created.

17 Is consideration given to the preexisting national
18 platform when that subsequent state platform is created?

19 A Well, I know our platform committee chairman reviews those
20 sorts of documents and previous State Party convention
21 platforms as well. I couldn't speak to the specifics of
22 that process.

23 Q Could the state platform be contradictory to the existing
24 national platform?

25 MR. WHITE: I'll object to the form of the

1 question.

2 Q (By Ms. Zipp) Is there a requirement that the state
3 platform be consistent with the national platform?

4 A I'm not aware of any such requirement. I'm also not aware
5 of differences, meaningful differences between those
6 platforms. But there is not a requirement.

7 Q You're not aware of a requirement or there isn't a
8 requirement?

9 A I'm not aware of a requirement.

10 Q If there were a requirement, who would be aware of it?

11 A I would consult the rules for the Republican National
12 Committee, which are adopted at the convention. I have not
13 reviewed those rules recently. Those are the rules for the
14 national party and have some binding effect on state parties
15 as well. So that would be the authority to consult.

16 Q So you said that the rules for the national party have some
17 binding effect on the state parties. Can you tell me ways
18 in which the national party controls the operation or
19 decision-making of the State Party?

20 A They -- one prominent one, which we just discussed at length
21 in our most recent Republican National Committee meeting,
22 relates to the timing and conduct of precinct -- excuse me,
23 of the presidential nomination process. States make
24 different decisions about when it's going to be held. And
25 the rules for the national party dictate when primaries and

1 caucuses can be held, and there are penalties for states
2 that try to jump the gun and go earlier.

3 Q Are there any other examples you can give me?

4 A That's the one I can recall at the moment. That's certainly
5 been very prominent recently.

6 Q To your knowledge, do local parties adopt official
7 platforms?

8 A Most, if not all, county party organizations adopt a
9 platform on the same two-year basis. Every two years our
10 counties usually hold their conventions in the springtime of
11 even-numbered years.

12 Q If you're familiar with it, can you tell me the process that
13 the counties use to develop the platform?

14 A It does vary. They're adopted at county conventions. So in
15 the same way that we have a state convention, the county
16 will have a convention at which the delegates to the
17 convention will adopt their platform. I'm not certain with
18 -- the breadth of processes that might be used by the
19 different counties to develop their platform, but they are
20 adopted at their county conventions.

21 Q Are there caucuses in addition to conventions?

22 A There are. In even-numbered years there are precinct
23 caucuses held, usually in the February time frame at that
24 most -- at that smallest geographical level that is kind of
25 the starting point for that grassroots political process

1 that goes from precinct caucus to county convention to state
2 convention, and then in the presidential years only to the
3 national convention.

4 Q What happens at a precinct caucus?

5 A At a precinct caucus there is a discussion of issues, and
6 usually there's a survey taken of individuals as to their
7 opinion on some of the different political issues of the
8 day. And they also elect delegates and alternates to their
9 county or legislative district organizations. In some of
10 the large counties they'll have a legislative district
11 convention before a county convention. Just because
12 counties like King are so vast, it lends itself to smaller
13 numbers.

14 Q So you said that there's a discussion, maybe a survey. Who
15 sets the agenda for that discussion?

16 A Well, we have rules that are adopted by the State Committee
17 for the conduct of the caucuses and conventions. And those
18 are the rules that are -- that need to be abided by by the
19 precinct caucuses and the county conventions as well.

20 Q Who attends a precinct caucus?

21 A Members of the Party. We have a sign-in sheet where those
22 who want to participate -- I mean, in some of them people
23 can stand off to the side and watch, but if they want to
24 participate they have to sign in and certify that they're
25 members of the Party.

1 Q Is participating in a survey, does that count as
2 participating in the caucus?

3 A Well, they don't get to get that far if they're not willing
4 to sign in --

5 Q Okay.

6 A -- and certify that they're members of the Party.

7 Q You mentioned at the caucus people are elected. I missed
8 the exact term.

9 A Delegates and alternates to either/or a legislative district
10 or a county level get-together.

11 Q How many delegates and alternates are elected?

12 A It varies because not every precinct has the same
13 population. The counties try to stagger so that it's
14 proportionate to the population. So a precinct with a lot
15 of registered voters in it will get more delegates and
16 alternates than a precinct that has a fewer number of
17 registered delegates. So we allocate -- we have a formula
18 that allocates a certain number of delegates to every
19 county, and then they allocate those delegates within their
20 different precincts.

21 Q What happens at the county convention?

22 A At the county convention -- in most counties they both elect
23 delegates to the state convention and they adopt a platform.
24 Those are the two major actions. In a few of the --

25 King County is the most prominent example. They'll

1 actually elect the delegates at a legislative get-together,
2 but they'll adopt a platform at the county convention.

3 Q How do the precinct committee officers fit into this scheme
4 that you just described?

5 A Under our rules the precinct committee officers are
6 automatic delegates to their legislative district or county
7 conventions. So they automatically serve on the body that
8 votes for delegates and alternates at the state convention,
9 they automatically vote on our county party platform. So
10 that's the role that the PCOs fill in there. They also
11 conduct or arrange for the conduct of the precinct caucuses.

12 Q With regard to the county platform, does the State Party
13 have a requirement that the county -- that a county's
14 platform be consistent with the state platform?

15 A We do not, though I'm not aware of a county platform being
16 inconsistent, but we do not have such a requirement.

17 Q We talked earlier about the requirements for membership. To
18 be a member of the State Republican Party is it necessary to
19 support the state platform?

20 A That is not among the specific listed requirements of the
21 membership policy.

22 Q Do you consider it to be an unstated requirement?

23 A It's an important principle to me, and I certainly encourage
24 it as best I can among Party members.

25 Q Is there a requirement that Party officials support the

1 State Party platform?

2 A We have instituted a policy this year where we asked our
3 federal and statewide nonincumbent candidates to let us know
4 if they agreed with the principles of the different planks
5 of the platform. That was a policy we just adopted this
6 year for federal and statewide offices.

7 Q So that policy is in effect right now.

8 A It is.

9 Q And you said to let you know --

10 A Yeah.

11 Q -- if they agree with the platform.

12 A Yes.

13 Q Does the policy address what happens if the -- what they
14 communicate to you is "I don't agree with the platform"?

15 A The policy refers that to the Executive Committee for their
16 deliberation and consideration of what they consider to be
17 appropriate action, although the policy doesn't specify what
18 that appropriate action might be.

19 Q Has that policy been triggered yet?

20 A It has not. We have -- we -- in this process we didn't find
21 any of our candidates that we considered -- that there was
22 a -- I limited it to what I considered to be serious
23 candidates who were members of the Party. And none of them
24 had any philosophical disagreements with the platform that
25 they expressed to us.

1 Q What do you define -- how do you define a "serious
2 candidate"?

3 A "Serious" to me was someone who was going out and actively
4 trying to raise money, get endorsements, going out on the
5 campaign trail, making an effort to actually be successful
6 in the election.

7 Q Now, you mentioned candidates. Are you distinguishing
8 between candidate and nominee?

9 A Well, there is a difference between those two terms.

10 Q Uh-huh.

11 A And in primary season we frequently don't have a nominee in
12 the same way for the national party, we don't have a nominee
13 for president to the national convention, we have candidates
14 who are either authorized to receive Party resources and
15 those that aren't until such time as we're ready to select a
16 nominee.

17 Q What is the requirement to obtain -- to become an authorized
18 candidate?

19 A That -- you've got to be a Party member. And depending on
20 the level of which office we're talking about, a responsible
21 authority makes a decision as to whether you're -- in my
22 case the language I use is "serious," as I mentioned. And
23 I'm the one who makes the decision for the resource --
24 whether they get resources for federal and statewide
25 offices. For legislative and local races it's the county

1 officials who make those decisions.

2 Q So you said you, in your capacity as Chair, make the
3 decision whether someone will be an authorized candidate for
4 federal and statewide offices.

5 A Correct.

6 Q Are there written criteria that guide how you make that
7 decision?

8 A There are not, except -- the policy on -- that I mentioned
9 that -- we do have a policy that has that word "serious,"
10 but it doesn't go the next step of defining what that word
11 might mean.

12 Q What is that -- you said you have a policy. It's a -- is
13 this a document, a policy document?

14 A I'm trying to remember if there was a specific policy
15 document. It was this process I described earlier of
16 presenting candidates with the platform to see if they
17 agreed with the principles.

18 And I only even gave the platform to candidates that I
19 considered to be serious candidates. So that was the --
20 that was the language involved there.

21 I'm trying to remember if it was -- if I just expressed
22 that to the Committee or if it was ever reduced to a policy.
23 I'm not remembering offhand at the moment.

24 MS. ZIPP: If that document exists, can we get a
25 copy of it?

1 MR. WHITE: (Nodding head.)

2 MR. AHEARNE: Just so the record is clear, was
3 that a "yes"?

4 MR. WHITE: Yes.

5 Note to self: Don't nod your head.

6 Q (By Ms. Zipp) So you have been making this decision in your
7 capacity as Chair. Has this -- the process of such a
8 decision being made been in place during the full time of
9 you being Chair of the Party?

10 MR. WHITE: I'm going to object to the form of the
11 question.

12 MS. ZIPP: Let me rephrase.

13 Q (By Ms. Zipp) We've been talking about the Party
14 recognizing serious candidates, authorizing serious
15 candidates. Being authorized as a serious candidate gives a
16 candidate what sorts of things from the Party?

17 A The types of resources that we make available to authorized
18 candidates include listing them on our websites for
19 different offices. We don't just list every candidate who
20 has said they prefer Republican Party, it's only authorized
21 parties -- we've authorized candidates we've put there.
22 They are given access at different levels to our voter
23 database. They are eligible to have their name included on
24 other materials where we list candidates' information who we
25 make available to speak at our state convention which was

1 broadcast on TBW. We only allowed those candidates who had
2 been authorized to speak at the convention.

3 So those are among the benefits of being authorized.

4 Q The -- when did the Party begin to have the status of
5 authorized candidate?

6 A It's -- there's no formal policy that mentions the word
7 "authorized." It's a process I've certainly been
8 implementing throughout my tenure as Chairman. That
9 language about "serious" came about earlier this year, and
10 that process of delivering the platform to the federal and
11 statewide nonincumbent candidates was developed this year.

12 Q So the policy of authorizing you said has certainly extended
13 through your term as Chair, which goes back three and a half
14 years, which would take us to about 2007, January of 2007.

15 A January of 2007.

16 Q Do you know whether the previous Chair also authorized
17 candidates?

18 A I'm not sure.

19 Q Who would know that?

20 A My predecessors, I'm sure.

21 Q Who was the predecessor to your --

22 A My immediate predecessor was Diane Tebelius, and before that
23 Chris Vance.

24 Q Okay. What criteria do you consider in determining whether
25 a candidate is -- you are going to authorize a candidate?

1 A If they're a Republican, if they're a member of the Party;
2 if they are a serious candidate who's going to go out there
3 and work hard to get elected because winning elections is
4 very, very important to us; and they don't have anything in
5 their history that would lead me to believe that they would
6 not be a good candidate.

7 Q Can you give me an example of something in a candidate's
8 history that would lead you to believe they wouldn't be a
9 good candidate?

10 A If they had been a member of the Ku Klux Klan, I would have
11 some real problems with that.

12 Q What about if they had been a member of another party?

13 A Well, since -- since our, you know, most popular and heroic
14 Republican in the last 30 years, Ronald Reagan, was a former
15 Democrat, we certainly welcome converts as long as their
16 conversion is thorough and complete. We love it when
17 Democrats see the light of day. So we don't have any
18 problem with that.

19 Q You mentioned earlier that one of your responsibilities as
20 Party Chair is to communicate the Party's message.

21 A (Witness nodding head.)

22 Q As a voter, where would I find the Party's message?

23 A Well, you'd find it a whole host of different places.
24 Amongst them would be our website. I send out e-mail
25 updates. We hold events. Just last night we held a rally

1 in Westlake Park that if you were watching KOMO 4 last night
2 at 11:00 you would have seen me for a few brief seconds
3 addressing the concerns we have with Senator Murray and
4 President Obama.

5 We also help to send out literature at times on behalf
6 of our candidates, either through the mail or by giving it
7 to volunteers to hand out. I have volunteers make phone
8 calls.

9 So a whole -- that's among a whole host of different
10 ways that we try to communicate.

11 Q Republican incumbents, are they a source of the Party
12 message?

13 A They are, yes.

14 Q In your experience have there been Republican incumbents who
15 have delivered a message that is inconsistent with the State
16 platform?

17 A That can happen.

18 Q So is it fair to say that the Republican Party message can
19 be internally inconsistent or contradictory?

20 A You --

21 MR. WHITE: Object to the form of the question.

22 Q (By Ms. Zipp) Go ahead and answer.

23 A Okay. You certainly can have individual members of the
24 Party who hold positions that are at odds with various
25 elements of the platform. That certainly can happen.

1 Q I asked if in your experience there had been Republican
2 incumbents who had delivered a message that was inconsistent
3 with the Party platform. Can you give me an example of
4 that?

5 A I can remember Senator McCain supporting an immigration bill
6 that didn't seem to quite comport with the immigration
7 section of our platform.

8 Q So that would be a federal Republican. And when you say
9 "our Party platform," is that --

10 A State party --

11 Q -- the State Party --

12 A The State Party platform.

13 Q Okay. Any example of a State Republican incumbent?

14 A Not that I can recall.

15 Q Does the Party have a process or a policy to address if a
16 Republican incumbent -- State Republican incumbent delivered
17 a message that is inconsistent with the State Party
18 platform?

19 A We do not have a formal process.

20 Q Do you have an informal process?

21 A Well, the State Committee has the -- you know, as the
22 authority that has come up with rules for nomination and
23 everything else, frankly, has the authority to take the
24 action they see fit. There's nothing currently that
25 addresses that particular topic.

1 Q Does the State Party nominate candidates for statewide
2 public office?

3 A We do.

4 Q How?

5 A Our -- under our rules for statewide office the State
6 Committee is the authority that makes that decision as to
7 whether to nominate a statewide candidate.

8 Q Can you walk me through the steps that lead up to that
9 nomination?

10 A Well, it's not necessarily a complicated process. At any of
11 our three State Committee meetings someone can make a motion
12 to nominate a particular candidate. That can then be
13 discussed and debated and then voted on.

14 Q How would a candidate get his or her name into consideration
15 for being the nominee?

16 A Well, one of the State Committee members would make a motion
17 from the floor of a State Committee meeting to accomplish
18 that purpose.

19 Q Are there -- does the State Party have threshold
20 requirements that a candidate must meet to become a nominee?

21 A That's not addressed in the nomination policy, though I'm
22 sure State Committee members in their own minds are
23 factoring in those sorts of considerations.

24 Q When is the selection made?

25 A There isn't a requirement as to the timing or season of the

1 nomination in our rules.

2 Q So there is no requirement that the timing be connected in
3 some way with an election season?

4 A It's -- that topic isn't addressed in the rules.

5 Q Once a person is selected as a nominee, does the Party
6 monitor that nominee's conduct or activities?

7 A Well, once they're our nominee we usually work as hard as we
8 can to get them elected. So we're usually, you know,
9 certainly working with them as best we can.

10 Q Does that working with them include monitoring what messages
11 the nominee delivers?

12 A There's no formal monitoring process, though we certainly,
13 you know -- the more prominent the race is we certainly
14 become aware of what the candidate's themes and positions
15 are.

16 Q Is it possible for the Party to select more than one nominee
17 for any given race?

18 A The rules we have don't address the topic of number of
19 nominees. So that -- that would be possible under the
20 rules. Since I've been Chairman we've never had more than
21 one nominee for any particular statewide or congressional
22 race.

23 Q Since you've been Chairman have there been instances where
24 the Party's had no nominee for a race?

25 A Yes, that does happen sometimes.

1 Q Under what circumstances does that happen?

2 A When the State Committee just doesn't take an action to
3 nominate someone.

4 Q Does the Party have a process for revoking its nomination of
5 a candidate?

6 A We do not have a formal process for revoking, though of
7 course the State Committee, as the body that came up with
8 the rules for nomination, can amend or modify them at their
9 discretion.

10 Q Has -- to your knowledge, has the Party ever nominated a
11 candidate who, upon filing, expressed a preference for a
12 party other than the Republican Party?

13 A Could you repeat that? I --

14 Q Yeah.

15 A -- want to make sure I understand the question.

16 Q To your knowledge, has the Party ever nominated a candidate
17 who, on filing, expressed a preference for some party other
18 than the State Republican Party?

19 A Not that I can recall.

20 Q Would filing as a conservative Republican be inconsistent
21 with being the Republican nominee?

22 MR. WHITE: I'll object to the form of the
23 question.

24 Q (By Ms. Zipp) Does the Party require that its nominees
25 express their preference for a party in a particular way?

1 A There is no requirement of that in the rules.

2 Q Does the Party have a position on expressions of party
3 preference that are somehow modifiers of Republicans or --

4 A We don't have a formal policy on that.

5 Q Does the Party nominate candidates for nonpartisan races?

6 A We endorse candidates for nonpartisan races. This year we
7 endorsed Justice Jim Johnson and Justice Richard Sanders for
8 re-election. And we'll also take a position to endorse a
9 yes or no vote on ballot measures. We've already taken a
10 position to, I think in January, endorse Initiative 1053.

11 Q What's the difference between "endorsement" and
12 "nomination"?

13 A Well, a nominee is a representative of the Party, they
14 become in large part a spokesman for the Party. An
15 endorsement indicates that we -- we like that person and we
16 think they're the best choice for a particular office or
17 it's the best vote on a particular measure, but they're not
18 necessarily representative of the Party or in any way
19 speaking for the Party.

20 Q But a nominee is considered to be speaking for the Party.

21 A They -- yes.

22 Q Are you familiar with the election system used in Washington
23 from 1935 to -- about 1935 to 2004 referred to as the
24 Blanket Primary?

25 A To a large extent, yes. I ran for office two or three times

1 under that system myself.

2 Q Describe to me how that system operated.

3 A Under the Blanket Primary the top vote-getting candidate
4 from every party advanced to the general election. And
5 there was no control over whether voters -- voters could
6 ticket split, they could vote for a Democrat for one office,
7 Republican for a second office, Libertarian for a third
8 office, Green Party for a fourth office. So they could
9 ticket split and vote all over the ballot, and then the top
10 vote-getter from each party would advance to the general
11 election, is my recollection.

12 Q You said you ran for office under that system?

13 A Correct.

14 Q Did you run as a Republican?

15 A I did, yes.

16 Q Were you the Republican nominee?

17 A I -- I don't know. I don't recall that particular -- that
18 element of it in terms of if there was a Party process
19 that -- for that time frame. I remember differently in '06,
20 but in '98, 2000, and 2002...

21 I don't have that level of certainty to answer that
22 question entirely.

23 Q Aside from your own experience --

24 A Yeah.

25 Q -- are you aware of whether the Party selected nominees for

1 office during those years?

2 A I'm not sure. I really didn't pay any attention to State
3 Party business back in that day, I was focused on winning my
4 own election.

5 Q And winning your own election didn't involve paying
6 attention to State Party business?

7 A I didn't, at least.

8 Q After the Blanket Primary there was the Montana or
9 Pick-a-Party Primary. Are you familiar with that election
10 system?

11 A I am. And I'm trying to remember, was that 2006?

12 Q Would have been 2004 --

13 A 2004. I ran for Congress in 2004 under that system. So
14 that's my experience with Montana.

15 Q Describe to me how that system operated.

16 A That was a system where a person had to check a box
17 indicating which party's primary they wished to participate
18 in. And then the top vote-getter from each party advanced
19 to the general election, as I recall.

20 Q Did you run as the Republican nominee in that?

21 A Well, I certainly -- I ran as the Republican Party
22 candidate. It was a primary. I didn't advance through the
23 primary, unfortunately. And I don't recall there being a
24 nominee before the primary.

25 Q What steps did you go through to run as a Republican

1 candidate under that system?

2 A Well, I did the best I could to meet with the local Party
3 organizations at the legislative district level and
4 Republicans at local Republican clubs and Republican women's
5 clubs and did the best I could to get endorsements from
6 other Republicans and tried to gather as many Republican
7 votes as I could.

8 Q Did you get authorized as a Republican candidate?

9 A I certainly received access to the database for the Party at
10 that time. At that time that terminology might not have
11 meant anything to me, but I certainly had access to the
12 Party resources, the most prominent of which was the voter
13 database.

14 Q Under the Pick-a-Party system how did the State Party pick
15 its nominee?

16 A I don't know.

17 Q Beginning in 2008 the Top Two Primary system came into
18 place.

19 A (Witness nodding head.)

20 Q Describe to me how that system operates.

21 A In the Top Two Primary individuals can vote for candidates
22 from multiple different parties. They can pick a Democrat
23 for one race, Republican for a second, Libertarian for a
24 fourth, a Green Party, down the line, ticket splitting as
25 it's sometimes referred to. And the candidates are

1 designated as preferring a certain party on the ballot. And
2 then the top two vote-getters from that election advance to
3 the general election.

4 Q Does the Party participate in the Top Two Primary campaign
5 season?

6 A Yes, we do. We have activities to try to encourage
7 Republican turnout in primary elections, especially because
8 there is a lot of coverage by the media and speculation as
9 to what percentage Republican candidates need to get in
10 primaries to be considered viable candidates or, on the
11 other side, for their Democrat opponents to be considered
12 vulnerable. And that can be very, very important to our
13 success in the general election.

14 Q Does the Party participate in any other way during the
15 primary campaign season?

16 A Well, we certainly try to -- you know, we offer to -- to
17 authorized candidates, we offer them the Party resources and
18 try to promote them as best we can. And then getting the
19 Republican vote out is a particular emphasis of ours. And
20 through our communication strategies we try to point out the
21 shortcomings of our Democrat opponents and the wisdom of the
22 Republican position on the issues.

23 Q At what point does the Party identify its official nominee?

24 A Well, that -- that's in the discretion of the State
25 Committee. In our rules there's no limitation on when they

1 can do that. We normally have three meetings a year of the
2 State Committee. So it has, in my three and a half years,
3 always been at one of those three State Committee meetings
4 that that -- when a nomination has occurred that it has
5 occurred.

6 Q Are those three meetings held at similar times in the
7 calendar during the year?

8 A Usually. Usually there's a January meeting and a spring
9 meeting and an August or September meeting.

10 Q Does the Party ever provide support during the primary to a
11 candidate who has declared a preference for a different
12 party?

13 A No, we do not.

14 Q How about a candidate who's declared no party preference?

15 A We certainly have not done that in my three and a half
16 years.

17 Q To your knowledge, has the Party ever withheld support
18 during the primary from a candidate who has expressed a
19 preference for the Republican Party?

20 A Oh, yes. That frequently occurs. For example, right now in
21 the U.S. Senate race, which is the one statewide partisan
22 race we have this year, there are five individuals who filed
23 as "preferring Republican Party." Three of them have been
24 authorized to receive Party resources: Paul Acres, Clint
25 Didier, and Dino Rossi. And the two others have -- are not

1 receiving any Party resources or Party support at all.

2 Q So in any given primary race the Party may support more than
3 one candidate?

4 A We may offer Party resources and authorize the use of those
5 resources for multiple candidates in a primary season, yes,
6 that's correct.

7 Q In 2008 and thereafter, while the Top Two Primary has been
8 in effect, in the general election following the primary if
9 the Party's nominee --

10 Well, we don't know when the --

11 Strike that.

12 Following the primary, if -- following the primary is
13 it the Party's policy to identify a nominee?

14 A There's no requirement in the rules that the State Committee
15 choose a nominee. It's within their discretion to do so,
16 but there is not a requirement in the rules for them to do
17 so.

18 Q In your experience, has the Party done so?

19 A Not -- not in every case. I'm most familiar with
20 congressional and statewide races, but there have been some
21 where that has not been the case.

22 Q So have there been, in your experience, instances in which a
23 candidate stating a preference for the Republican Party has
24 advanced to the general election and the Party has not
25 selected that person as a nominee?

1 A Yes.

2 Q Any names come to mind?

3 A The 3rd Congressional District in 2008. The Party-nominated
4 candidate before the primary was Christine Webb. A
5 gentleman who also listed "Prefers Republican Party" by the
6 name of Michael Delavar (phonetic) received more votes than
7 her, and he advanced to the general election. And the Party
8 did not provide Party resources to him in the general
9 election.

10 Q Have there been instances in your experience in which both
11 candidates who have advanced to the general election have
12 expressed preference for the Republican Party?

13 A Yes, that does happen. I remember -- I believe it last year
14 in the 9th Legislative District both Susan Fagan and Pat
15 Hailey were Republicans, and both good Republicans, advanced
16 to the general election. That's one instance. And I know
17 that that's happened for some Democrats in Seattle, too.
18 That's one that definitely comes to mind.

19 Q And what made them good Republicans?

20 A Well, they were clearly members of the Party with -- you
21 know, got out there, ran good campaigns, were good advocates
22 for the Party and its positions. And the Party ended up not
23 taking a position in that particular race because both
24 candidates were considered to be good candidates.

25 Q Since the implementation of Top Two, to your knowledge has

1 any candidate for statewide partisan office falsely claimed
2 to be the nominee of the Republican Party?

3 A Well, let me answer this way. I think people who file as
4 "Prefers Republican Party" are, you know, generally
5 attempting to affiliate themselves with our party. Now, I'm
6 not aware of somebody officially making a statement, "I am
7 the nominee of the Republican Party" who wasn't a nominee of
8 the Republican Party, but I think many candidates have
9 attempted to -- or ended up, let me say it that way, ended
10 up misleading the public as to whether they were the
11 representative or nominee of our Party.

12 Q So would you say in your experience -- do you have knowledge
13 of any candidate falsely claiming to prefer the Republican
14 Party?

15 A You know, I'm not sure how I could tell whether somebody
16 prefers the Republican Party or not in their mind. What I'm
17 worried about is the effect on the Party itself, not on the
18 internal mental process of the person who's filing for
19 office.

20 Q And tell me what that effect is.

21 A Well, it creates a lot of confusion among voters as to which
22 candidates are affiliated with the Republican Party and
23 those candidates that are not. And that's a confusion that
24 I have to deal with constantly.

25 Q How are you made aware of that confusion?

1 A When I talk to individuals and reporters all the time,
2 they -- they never refer to candidates as "the candidates
3 who prefer Republican Party," in my case, they always refer
4 to "the Republican candidate." Or reporters will say to me
5 "your candidate" sometimes, even if they're people I've
6 never heard of that we're not offering Party resources to.
7 So that's -- those are a couple examples.

8 Q How do you respond when that happens?

9 A I try to clarify to them, "Hey, under this Top Two Primary
10 persons are allowed to say 'I prefer the Republican Party'
11 whether the Republican Party agrees with their being able to
12 do so or not, and it creates this false impression of
13 affiliation. So please come to me and ask which candidates
14 have been authorized to receive Party resources or not."

15 But, again, when I read the newspaper stories the next
16 day it's never "the prefers Republican Party candidate"
17 that's referenced, it's always "the Republican candidate."

18 Q You said reporters, you heard this from reporters, but also
19 individuals?

20 A Yeah.

21 Q How do those individuals contact you?

22 A Whenever I have conversations. And I'm fortunate to not
23 just be involved in politics, but in my Rotary Club, in my
24 church, you know, wherever I meet with people who aren't --
25 whether they're Party members or not, in the conversations

1 we have frequently people are confused about all the names
2 on the ballot and they're asking me about what the
3 terminology on the ballot means. And I do my best to
4 explain it, but they frequently find it very confusing.

5 Q What specifically do you understand them to be confused
6 about?

7 A Whether a particular candidate -- whether "Prefers
8 Republican Party" means that -- are they the Republican
9 Party's candidate or are they approved or -- the word I
10 would use is "authorized" -- I'm not saying that they would
11 use that word, but -- by the Republican Party to be there on
12 the ballot.

13 Q To your knowledge, since 2008 has the Party ever taken legal
14 action to restrain a candidate from stating a preference for
15 the Republican Party?

16 A Separate from this lawsuit, no.

17 Q Okay. Has the Party taken any action to correct statements
18 in the press of the sort you just mentioned?

19 A Whenever I talk to reporters I try to clarify. I do the
20 best I can.

21 MS. ZIPP: I'm going to take a short break.

22 (Recess taken from 11:38 to 11:45 a.m.)

23 Q (By Ms. Zipp) Okay. We spoke a little bit about precinct
24 committee officers. Are you familiar with the laws relating
25 to the selection of precinct committee officers for your

1 party?

2 A Somewhat. I have not reviewed those any time recently.

3 Q Can you generally describe to me how the process works for
4 selecting precinct committee officers?

5 A There's an election which currently is held in the primary,
6 the August primary, at which -- in the precincts, which are
7 decided upon at the county level, how big a precinct is.
8 There's an election for the precinct committee officers of
9 the different parties. And any voter is eligible to vote
10 for any of the precinct committee officer candidates listed
11 on the ballot, whether they're Democrat or Republican. And
12 there may be other party PCOs, though I've never seen them
13 frankly.

14 And precinct committee officers who are elected then
15 move on the process as we described earlier to do some
16 functions at county, organizing meetings and so on and so
17 forth.

18 Q Are precinct committee officers officers of the Republican
19 Party?

20 A Yes, they are the elected representatives of the Party at
21 the smallest geographic level.

22 Q And who pays for the election of precinct committee
23 officers?

24 A It's my understanding that the local government in the area
25 where the precinct committee officer is situated pays for

1 that.

2 Q As you understand it, how has the process changed, the
3 election process for precinct committee officers changed
4 with the adoption of the Top Two Primary?

5 A I'm not sure. I'm not sure.

6 Q Can you identify any way in which you think it has changed
7 with the adoption of the Top Two Primary?

8 A You know, I haven't reviewed that element of the statute, so
9 I'm not recalling anything right now.

10 Q You were identified as a witness in the Republican Party's
11 response to the State's first interrogatories. Were you
12 aware that you were identified as a witness?

13 A That -- yes.

14 Q I'm going to read to you the description --

15 A Okay.

16 Q -- of the testimony that was provided in those
17 interrogatories.

18 "Mr. Esser will testify regarding the same subject
19 matter as Mr. Brady" --

20 This is the description from Mr. Brady --

21 A Uh-huh.

22 Q -- "regarding confusion among voters and Party members
23 resulting from Initiative 872's implementation, including
24 use of the Republican Party name by candidates filing for
25 office in state and local voters pamphlets and on ballots,

1 the effect on Party-supported candidates and the ability of
2 the Washington State Republican Party to communicate with
3 its members regarding the identity of the Party-supported
4 candidates, and Washington State Republican Party rules
5 regarding delegates to state, local, and national
6 conventions, election of Republican Party precinct committee
7 officers, and nomination of Republican Party candidates."

8 That ends the description of Mr. Brady's testimony.

9 And in addition for you the description said, "and the
10 impact of Initiative 872 as a part of Washington's broader
11 regulation of election campaigns."

12 Is it your understanding that these are the things that
13 you would be testifying about if you testify at trial?

14 A That -- that sounds familiar.

15 Q Is there anything else that you understood you would be
16 testifying about?

17 A You know, I'm not recollecting if that list is exhaustive,
18 but that does sound familiar as the language that was listed
19 in the pleading.

20 Q Okay. So I wanted to ask you some questions about these
21 things.

22 A Sure.

23 Q So the first one is "Confusion among voters and Party
24 members resulting from Initiative 872's implementation."

25 What about Initiative 872's implementation causes

1 confusion among voters?

2 A Well, it's the -- a large part of it is the "Prefers" blank
3 "party candidate" language under which candidates file
4 creates a lot of confusion with voters, both members and
5 nonmembers, in conversations I've had as to whether that
6 represents an affiliation with the Republican Party or not.
7 And frequently I find in conversations that people are
8 assuming that there is an affiliation between the Republican
9 Party and a candidate who puts the word "Republican" in
10 between the words "prefers" and "party" when they file for
11 office.

12 Q And when you say "an affiliation" --

13 A Uh-huh.

14 Q -- what do you mean by that?

15 A That there's an affiliation, an association, between the
16 candidate and the Republican Party, that the candidate is
17 running as an approved or authorized candidate of the Party
18 on the ballot.

19 Q So if we described the direction of that connection, an
20 affiliation between the candidate and the Party, do you mean
21 that voters believe that the candidate is affiliating
22 himself with the Party?

23 A Or vice versa, that the Party is affiliating itself with the
24 candidate. I find people can be confused in both
25 directions.

1 Q Is there anything else about 872's implementation that
2 causes confusion among voters?

3 A Well, that's the primary confusion that I've seen, is that
4 it relates to the "Prefers Republican Party" language.
5 There are other problems with it, but that's the primary
6 confusion.

7 Q What other problems?

8 A Well, we've -- you know, in our attempt to address the
9 confusion in 2008 we attempted to communicate to our Party
10 members as to who our nominated candidate was, most
11 prominently in the Governor's race. And we're involved in
12 another matter where the State is attempting to punish us
13 for communicating with our members as to which of our
14 candidates was our nominee. And the Governor's race was the
15 most important race in our state last year -- excuse me,
16 2008. It was a high priority for us, and we were doing
17 everything we can to make sure our nominee's vote total was
18 as high as possible. There were two other candidates that
19 had filed as "Prefers Republican Party," and we wanted to
20 make sure that people knew Dino Rossi was our nominee and
21 get him as many votes as possible. And experiencing the
22 attempted punishment by the State is just making it very,
23 very difficult for us to communicate that message.

24 Q What other problems?

25 A An additional problem is that anybody, regardless of

1 whether -- you know, whether they can range from being
2 ambivalent about the Republican Party to being downright
3 hostile to the Republican Party gets to select which
4 candidate will be the one who appears on the ballot as
5 "Prefers Republican Party," which again I think in a lot of
6 people's mind means they're affiliated or associated with
7 the Republican Party.

8 So we have a voting universe of people who are not
9 necessarily friendly or that share the beliefs of the
10 Republican Party who are choosing candidates who are going
11 to be assumed by a large part of the electorate to be a
12 representative of or affiliated with the Party.

13 Q So when you say voters get to select who appears on the
14 ballot as preferring Republican Party, do you mean who
15 appears at the general election?

16 A Well, they get to vote in the primary to determine who
17 appears in the general via that Top Two system. So to use
18 one example, Dwight Pelz could vote for one of -- somebody
19 who said they prefer Republican Party, even though he does
20 not have the best interest of the Republican Party at heart.

21 Q You described that voters are confused by the candidate
22 preference language. How do you know that voters are
23 confused?

24 A Because I have a lot of conversations with people, and not
25 just in political context. As I mentioned, church, Rotary,

1 neighbors, in terms of voters, but also media people.
2 People that you would assume would be a little bit more
3 sophisticated observers of the political scene, even they
4 frequently assume that a candidate is the Republican Party's
5 candidate when they see "Prefers Republican Party" on the
6 ballot, the candidate listings after filing. And there's
7 just widespread confusion in my experience.

8 Q Do you keep records of those conversations?

9 A I do not, but I can honestly tell you that -- and I speak to
10 the media a lot, I mean a lot, especially when we get
11 anywhere near campaign season. And I don't ever remember a
12 reporter saying to me, "Hey, how about this candidate who
13 prefers Republican Party?" Not once. It's always --
14 candidates are always referred to as "the Republican
15 candidate," "the Democrat candidate," "your candidate," "the
16 Party's candidate." It's just widespread.

17 Q So what facts will you rely upon at trial to prove voter
18 confusion, this voter confusion you're describing?

19 MR. WHITE: I'll object to the form of the
20 question to the extent it calls for a legal conclusion for
21 the witness.

22 Q (By Ms. Zipp) To your knowledge, what documents or other
23 evidence is available in your experience supporting voter
24 confusion?

25 MR. WHITE: I'll object to the form of the

1 question to the extent that it calls for the disclosure of
2 attorney/client communications or attorney work product.

3 And to the extent it calls for you to discuss what we
4 have discussed, I'll instruct you not to answer to that
5 extent. To the extent that it's not based on our
6 conversations, you can go ahead and answer.

7 A Maybe -- if you could repeat the question.

8 THE WITNESS: And you could repeat because I want
9 to make sure I'm doing what's right here and being
10 responsive legally. And maybe I was the only one in the
11 room who didn't precisely understand the interaction.

12 Q (By Ms. Zipp) You have described to your knowledge that
13 there is a wide -- there's pervasive voter -- you didn't use
14 that word, "pervasive," but general voter confusion about
15 the candidate preference language.

16 A (Witness nodding head.)

17 Q Apart from conversations that you have had, which you say
18 you have not kept a record of, do you have any record that
19 documents that voter confusion?

20 A I have not been keeping a log or a record or anything of
21 that sort about the types of conversations I've just
22 related.

23 Q Another element about which you are described as testifying
24 is "Confusion resulting from the implementation of
25 Initiative 872, including the use of the Republican name by

1 candidates filing for office in state and local voters
2 pamphlets and on ballots."

3 What is that confusion?

4 A It's the use of the word "Republican" between "prefers" and
5 "Party," whether it's on the ballot itself or on the
6 Secretary of State's web page which lists, you know,
7 candidates who filed for office, engenders the same type of
8 confusion I mentioned earlier about people's minds about
9 this association that they assume upon seeing that language.

10 Q And do you have any basis for your knowledge of that
11 confusion beyond the conversations that you mentioned that
12 we just talked about?

13 A It is based on the conversations.

14 Q Prior to the implementation of 872 did candidates use the
15 Party name in the primary?

16 A I know that I used the Party's name when I ran for office.
17 Other than that, I'm not sure what other candidates in the
18 Party might have been doing before I became Chairman. I
19 certainly remember I filed as a Republican Party candidate
20 when I ran for office.

21 Q Does your term of chairmanship, did it begin before
22 Initiative 872 was implemented?

23 A Well, January of 2007 is when I became State Party Chairman.
24 And -- I mean, the lawsuit was already well under way by
25 then. So --

1 Q Was there an election -- there was a 2007 election. Were
2 there any partisan races to your knowledge in the 2007
3 election?

4 A There would have been local partisan elections. There were
5 not any statewide or congressional or legislative elections
6 in 2007 that I recall.

7 Q In those local elections did candidates file for office --
8 file for office using the Party name, Republican Party name?

9 A I don't recall specifically. That was probably the case.

10 Q Do you recall whether those candidates who filed using the
11 Republican Party name were authorized or certified as
12 Republicans?

13 A Well, that would have been a decision of local county Party
14 officials, and I'm not familiar with what their
15 decision-making would have been at that time.

16 Q Your testimony is described as including "The effect of
17 Initiative 872's implementation on Party-supported
18 candidates, and the ability of the State Party to
19 communicate with its members regarding the identity of
20 Party-supported candidates."

21 So I want to take that in two parts.

22 A Sure.

23 Q What is the effect on Party-supported candidates?

24 A Well, it harms our Party-supported candidates when there are
25 other non-Party-supported candidates who are utilizing the

1 Republican name in the midst of the "Prefers Republican
2 Party" language on the ballot. It takes votes away from
3 them in the primary, which can be very, very critical.
4 There's usually a lot of media attention paid right --
5 leading up to and right after a primary election as to what
6 percentage of votes did a particular candidate get. And
7 judgments will be made as to the viability of candidates.
8 And sometimes even a percentage point or two or three or
9 four difference can turn a candidate who looks like one
10 who's very viable to one who might not be viable, which can
11 limit a candidate's and the Party's ability to raise money
12 and get endorsements and get volunteers excited. So that
13 can be very damaging to the Party-nominated candidate.

14 Q So explain to me how that harm occurs.

15 A Well, you know, voters confuse, just by seeing a second or
16 third candidate whose name is -- appears on the ballot as
17 "Prefers Republican Party" right next to or in the same
18 column as the nominated Party candidate who says the exact
19 same language, "Prefers Republican Party," can be confusing
20 to the voters as to which one is the nominated candidate,
21 which one is truly affiliated with the Party, and can drag
22 votes away from that officially-nominated candidate.

23 Q So do I understand you to say that a voter who is voting
24 based solely on the "Prefers Republican Party" language
25 might vote for a candidate who is not the official nominee

1 of the Party?

2 A Yes, that's entirely possible.

3 Q And that is the source of the harm to the Party-supported
4 candidates?

5 MR. WHITE: I'll object to the form of the
6 question.

7 Q (By Ms. Zipp) I'm asking you: Is the harm that you're
8 describing to Party-supported candidates that a voter voting
9 based solely on the preference -- candidate preference
10 language could vote for someone preferring Republican Party
11 who is not the Party's preferred candidate?

12 A Well, that is one of the harms.

13 Q Are there other harms?

14 A Absolutely. It can also hurt our candidates if we have
15 people who are hostile to the Republican Party and to our
16 candidates voting for some other candidate in a close
17 election as opposed to limiting the people who can vote to
18 choose what is in effect the Republican candidate in that
19 Top Two Primary.

20 Q In talking about the harm, you described voters choosing
21 between a candidate who is truly affiliated with the
22 Republican Party or the official nominee of the Republican
23 Party and other candidates who prefer the Republican Party.

24 A Right.

25 Q Is --

1 Strike that.

2 How do you know that Party-supported candidates are
3 being harmed in the way that we just discussed?

4 A Well, I can read election returns, the conversations I've
5 had with voters about their confusion. And the same holds
6 true even if we haven't nominated a candidate. It can still
7 be the case --

8 Like in the current U.S. Senate race we have three
9 candidates who are authorized to receive Party resources who
10 are filed under "Prefers Republican Party" and two
11 candidates who are not authorized to receive county Party
12 services. And, you know, later tonight newspapers and TVs
13 and radio stations are going to be comparing Patty Murray's
14 vote total with the three major Republican Party candidates.
15 And I'm fearful that there's going to be votes dragged away
16 by these two other nonauthorized candidates, away from our
17 three good Republican-authorized candidates that may make it
18 harder for us to win that general election because of the
19 way the Top Two Primary is structured.

20 Q So is it fair to say that you consider it to be a harm to
21 the Party-supported candidates to the extent that any voter
22 votes for someone who states a preference for the Republican
23 Party but is not the authorized Republican Party candidate?

24 A Well, it's -- what I would say is it's a harm if they're
25 confused into voting for a candidate based on their

1 concluding by the wording of the ballot that that other
2 "Prefers Republican Party" candidate is affiliated with the
3 Party or authorized by the Party when that might not be the
4 case.

5 Q The other piece of this is what effect on -- "The effect of
6 the ability of the Party to communicate with its members
7 regarding the identity of Party-supported candidates."

8 How does the implementation of Initiative 872 effect
9 the ability of the Party to communicate with its members?

10 A Well, the challenge we're facing right now is that the State
11 is attempting to punish us for some communications we
12 engaged in in 2008 to try to draw attention to Party members
13 the importance of voting for Dino Rossi, who was the
14 nominated candidate for governor, and not for two other
15 individuals who had filed as "Prefers Republican Party" but
16 were not the nominee of the Party. We attempted to
17 communicate and did communicate with some mailed
18 communications and some others as well, but the State is
19 attempting to punish us for that, which makes it very
20 difficult for us to determine what kinds of activities can
21 we engage in to try to address the confusion that's caused
22 by the Top Two Primary.

23 Q Isn't the issue in the case that you're referring to the
24 source of the funds which were used for the communication
25 rather than the actual communication?

1 A That's the contention of the State.

2 Q The effect of -- another aspect of your testimony may be
3 "The effect of Initiative 872's implementation on the Party
4 rules regarding delegates to state, local, and national
5 conventions."

6 What effect has the implementation of 872 had on the
7 rules regarding delegates to conventions?

8 A I'm trying to recall at the moment, and I -- my -- my brain
9 is not recalling.

10 Q So you don't recall any effect that the implementation has
11 had on the rules regarding delegates?

12 A At this particular moment I'm drawing a blank on that
13 particular question.

14 Q Okay.

15 A I'll try to generate some brain energy while you move on to
16 your next question.

17 Q Okay. Another aspect of the testimony, "The effect of
18 Initiative 872's implementation on election of Republican
19 Party precinct committee officers."

20 What effect has the implementation of 872 had on the
21 election of PCOs?

22 A Well, the concern we have with the current scheme is that
23 anybody, including those hostile to the Republican Party,
24 get to vote on who the Republican Party's precinct committee
25 officer is in their community. And we would -- we think it

1 diminishes the Party and its positions and its strength to
2 have those who are hostile, potentially, choosing who our
3 precinct committee officers are.

4 Q How did the process for electing precinct committee officers
5 work before the Top Two Primary?

6 A I know it was at the general election in some previous
7 elections, is my recollection. At the moment I'm not
8 recalling what the other differences might have been.

9 Q So how would having the election of PCOs at the general
10 election versus at the primary change the election of PCOs?

11 A We would have the same concern just at an earlier date, the
12 primary election as opposed to the general election.

13 Q So as between the election of PCOs at the primary election
14 or at the general election, you are saying that the Party's
15 concern is the same?

16 A The principle is the same, yes.

17 Q Okay. And can you -- you were also saying you can't recall
18 any other difference between how PCOs are currently elected
19 versus how they were elected prior to the implementation of
20 Top Two?

21 A At the moment I'm not recalling any.

22 Q Another aspect of your testimony is "The effect of
23 Initiative's 872's implementation of nomination of
24 Republican Party candidates."

25 What is the effect on the nomination of Republican

1 Party candidates?

2 A The Party has had to spend more time and energy to the
3 process of nomination and trying to make it clear, even with
4 some handcuffs on us, who are the Party-nominated candidates
5 than we would have had to but for the Top Two Primary as
6 currently configured. And time is very valuable. In
7 election season we'd prefer to spend our time doing other
8 things to help us win elections. So that the time that we
9 have to spend doing those processes detracts from time and
10 energy and resources we can devote elsewhere.

11 Q Explain to me how the Party is spending more time nominating
12 candidates now than it did prior to Top Two?

13 A Well, when -- the last -- since I've been Chairman at least,
14 and that's what I can speak to, since the court action led
15 to us dealing, again, with the Top Two Primary, we've had to
16 spend a lot of time, time we didn't have to deal with during
17 the part of my chairmanship before we had the Top Two
18 Primary come back, dealing with issues of nomination and how
19 to communicate that we're going to have parties that are
20 nominated and getting -- overcoming the confusion. So it
21 has led to us having to devote much more time to it.

22 Q But just a minute earlier I was asking you whether in the
23 span of your chairmanship there had been any statewide
24 partisan offices prior to Top Two. And if I understood
25 correctly, you said there were no --

1 A In the two -- yeah.

2 Q Okay. So do you have any personal basis to say how the
3 Party's nomination -- commitment of time to nomination has
4 changed since the implementation of Top Two?

5 A Well, in 2007 we didn't, as a State Committee, have to spend
6 any time on it. And then in 2008, once we knew the 2008
7 election was going to have statewide races and congressional
8 races and legislative races under this Top Two Primary, we
9 had to spend considerable amount of time developing these
10 rules to operate ourselves under for the conduct of that
11 election season.

12 Q So there was an initial investment of time to develop rules
13 appropriate to the new system, is that what you're saying?

14 A That's true, though we reengaged again this year, as I think
15 we will probably continue to do every two years where the
16 State Committee, as is my chairmanship, operates on a
17 two-year basis. So every new State Committee I'm confident
18 will want to take a new look at that and see if there's been
19 any changes in the law, any changes to struggles we're
20 dealing with in terms of communicating our nominations, and
21 make any changes they consider to be appropriate. So it's
22 an issue that's not just going to be one we can just deal
23 with one time and be done with forever.

24 Q Were you a member of the State Committee at any time before
25 you became State Chairman?

1 A I was not.

2 Q Do you have any personal knowledge of how much time the
3 State Committee spent developing rules or -- developing
4 rules to govern the nominating process prior to the
5 implementation of Top Two?

6 A I do not.

7 Q Okay. Do you have any personal knowledge of how much time
8 the State Committee spent nominating candidates prior to the
9 implementation of Top Two?

10 A I do not.

11 Q Another aspect of the testimony is "The impact of Initiative
12 872 as part of Washington's broader regulation of election
13 campaigns."

14 A (Witness nodding head.)

15 Q What is that impact?

16 A It's related to the issue we discussed earlier of the
17 State's attempt to punish us for engaging in member
18 communications where we attempted to communicate to our
19 members about who our nominated candidate would be, or
20 similarly it could be if we attempted to communicate as to
21 who our authorized candidates were versus nonauthorized or
22 non-nominated candidates.

23 We also faced a situation where I understand that
24 candidates -- anybody who says "Prefers Republican Party"
25 gets to use logos related to the Republican Party in

1 addition to our name. And that creates, again, more and
2 more confusion as to what -- you know, which candidate is
3 affiliated and associated and which ones aren't.

4 Q So you -- if I understand, you said candidates get to use
5 logos of the Republican Party. Is -- how does the
6 implementation of 872 allow candidates or not allow
7 candidates to use the logo of the Republican Party?

8 A It was my understanding that the PDC, in implementing the
9 Top Two Primary system, had allowed that to occur.

10 Q To your knowledge, prior to the implementation of Top Two
11 were candidates allowed to use the logo of the Republican
12 Party?

13 A I'm not sure.

14 Q To your knowledge, did the Republican Party ever act to
15 prevent a candidate from using the logo of the Republican
16 Party?

17 A I'm not sure.

18 Q Any other impact of the implementation of 872 as part of the
19 broader regulation of election campaigns?

20 A Those are the aspects that I recall.

21 Q Okay. In the Republican Party's Supplemental and Amended
22 Complaint for Declaratory Judgment and for Injunctive Relief
23 Regarding Initiative 872 and Primary Elections, which I'm
24 going to refer to as the Complaint, you state that "The
25 practical effect of Initiative 872 was to confuse voters

1 about which candidates carrying the Republican name actually
2 supported the Party and its objectives and candidates who
3 had appropriated the Party name for their own political
4 advancements."

5 What do you mean by "candidates who actually supported
6 the Party and its objectives"?

7 A Candidates that we have either nominated or authorized to
8 use Party resources.

9 Q And do I understand you to say that any candidate who is not
10 nominated or authorized to use Party resources you would
11 consider to have appropriated the Party name for their own
12 political advancement? Is that the logical implication of
13 that?

14 MR. WHITE: I'll object to the form of the
15 question.

16 Q (By Ms. Zipp) If a candidate is not authorized or nominated
17 by the Party, in your opinion has that candidate
18 appropriated the Party name for their own political
19 advancement?

20 A In my opinion, yes.

21 Q The Complaint also says, "Subsequent to Defendant's
22 implementation of Initiative 872, State officials treated a
23 candidate's statement in his or her Declaration of Candidacy
24 that he or she prefers the Republican Party as indicating
25 that he or she is associated with the Republican Party."

1 How did State officials treat candidates' statements in
2 their Declaration of Candidacy as indicating that the
3 candidate is associated with the Republican Party?

4 A I believe that's a product of the Candidate Statement and --
5 both that and the PDC allowing individuals to utilize the
6 name as if they were synonymous, that "Prefers Republican
7 Party" meant Republican.

8 Q So --

9 MS. ZIPP: Could you read back the first part of
10 that answer, please?

11 (AT WHICH TIME THE RECORD WAS READ BACK.)

12 MR. WHITE: If you're going to be doing detailed
13 discussion can you let him see that --

14 MS. ZIPP: Oh, sure.

15 MR. WHITE: -- so he has context?

16 MS. ZIPP: Sure.

17 MR. WHITE: Because as he indicated, he did not
18 review this as far as preparing for the deposition.

19 MS. ZIPP: Shall we take a break and make a copy
20 of it?

21 MR. WHITE: Yeah.

22 (RECESS TAKEN FROM 12:22 TO 12:30 P.M.)

23 Q (By Ms. Zipp) Looking at Page 16 in the Complaint,
24 Paragraph 45, starting on Line 24, it says, "As evidenced by
25 the 2008 election cycle, candidates who expressed a

1 preference for the Party are indistinguishable from Party
2 nominees in common political discourse."

3 How did the 2008 election cycle evidence that
4 candidates who expressed a preference for the Party are
5 indistinguishable from Party nominees?

6 A Well, in my experience, based on all the conversations I had
7 with voters, Party members, media folks, that "preference"
8 language created a level of confusion that I had never heard
9 expressed before in previous primary systems.

10 Q In previous primary systems did you have conversations with
11 people about candidates?

12 A I certainly didn't have them anywhere remotely like I have
13 as State Party Chair. So that is true.

14 Q At the bottom of Page 17 on Line 25 -- well, actually
15 beginning Line 24, it says, "Initiative 872 is
16 unconstitutional because" -- skipping to Line 25 -- "it will
17 confuse voters regarding whether candidates identified with
18 the Republican Party are affiliated with the Republican
19 Party or represent its views."

20 If I -- as a voter, if I were looking for the views of
21 the Republican Party, where would I find those?

22 A You could look to our platform or to the statements of our
23 candidates to seek a representation of the views of the
24 Republican Party.

25 Q And when that statement says, "Candidates identified with

1 the Republican Party," that refers to the identification of
2 "Prefers Republican Party"? That's the identification
3 that's meant there?

4 A Well, I think that's -- that's the confused state we're in
5 now. Our -- you know, we would suggest to people to look to
6 nominated or authorized candidates for that true
7 representation, but the "preference" language does create
8 the confusion on that.

9 Q On Page 19 in Paragraph 58, the statement "Initiative
10 872" -- I'm starting on Line 3 -- "as implemented by
11 Defendants is unconstitutional because" -- skipping to Line
12 4 -- "it confuses voters as to whether candidates publicly
13 affiliated with the Party are, in fact, affiliated with the
14 Party or represent its views."

15 Is the language "candidates publicly affiliated with
16 the Party" referring to candidates who express a preference
17 for the Republican Party?

18 A Yes, whether that's transmitted in the ballot itself or on
19 the Secretary of State's website or local county auditor's
20 website. Wherever that language "Prefers Republican Party"
21 is listed, that's the source of that public affiliation and
22 confusion.

23 Q So in your opinion, a candidate who expresses a preference
24 for the Republican Party is publicly affiliating with the
25 Republican Party?

1 MR. WHITE: I will object to the form of the
2 question.

3 MS. ZIPP: That's all right.

4 Q (By Ms. Zipp) I'm done with the Complaint.

5 I have one question about the Interrogatories.

6 The State propounded Interrogatories on the Republican
7 Party. Were you aware that that had happened?

8 A Yes.

9 Q And in the first set of Interrogatories --

10 You signed the Interrogatories; is that correct?

11 A Yes.

12 Q I'd be happy to let you look at this.

13 One of the questions we asked was, "If you contend that
14 stating on the ballot that a candidate prefers Republican
15 Party will confuse voters regarding whether the candidate is
16 affiliated with the Republican Party, then state the factual
17 basis of that contention," to paraphrase the question.

18 I just want to ask you about one part of the answer to
19 that, which was "Voters, when viewing the ballot forms used
20 by the State, in substantial numbers believe that candidates
21 listed on the ballot are Republican nominees."

22 What is the basis for the belief that voters in
23 substantial numbers believe that candidates listed on the
24 ballot are Republican nominees?

25 A For my own personal testimony, as I've mentioned, I've had

1 numerous conversations with people. And I have to assume
2 the folks that I deal with are not dramatically different
3 than the population of the state as a whole. That seemed
4 like a reasonable conclusion to me, based on my testimony,
5 that's -- that's how I would read that.

6 Q Okay. And is that your testimony as a Plaintiff in this
7 lawsuit and person who signed the Interrogatory responses
8 and attested that they were true?

9 A Well, I -- I'm --

10 MR. WHITE: I'll object. I don't think this is a
11 30(b)(6) deposition. And so --

12 That's the objection. I will not make it a speaking
13 one.

14 MS. ZIPP: Okay. That's fine.

15 Q (By Ms. Zipp) Earlier we talked about nominating rules.

16 MS. ZIPP: Can you mark this as an exhibit?

17 (Exhibit No. 2 marked.)

18 Q (By Ms. Zipp) You've been handed a document marked as
19 Exhibit 2. Do you recognize this document?

20 A This appears to be the nomination rules for the Washington
21 State Republican Party for 2010.

22 Q Are these the current nominating rules?

23 A Yes.

24 Q Is this an official policy document of the Washington State
25 Republican Party?

1 A It is.

2 Q Is this the document that will govern the Party's nomination
3 of candidates in the 2010 election cycle?

4 A It is.

5 Q Do nominees communicate the Party's message?

6 A Yes, they do.

7 Q This document -- do I understand this document correctly,
8 that eligible incumbents for statewide office are
9 automatically the nominee of the Republican Party?

10 A That is correct.

11 Q Does that mean that eligible incumbents communicate the
12 message of the Republican Party?

13 A They do.

14 Q Automatically.

15 A Yes.

16 Q In your experience has an incumbent ever communicated a
17 message that is inconsistent with the message of the
18 Republican Party?

19 A That can happen. That is possible.

20 Q Has that happened during your time as Chair?

21 A I can think of one instance. Congressman Reichert voted for
22 the Cap-and-Trade Bill, which the Party does not support.
23 That's the one instance I can think of of a congressional or
24 statewide candidate taking a position that was different
25 from the Party position in a platform.

1 Q What did the Party do?

2 A The Party decided to renominate Congressman Reichert this
3 year. The State Committee was certainly aware of that
4 decision and decided that -- to look at his record as a
5 whole and furtherance of Republican principles as a whole in
6 their decision to renominate him.

7 MS. ZIPP: Would you mark this as an exhibit?

8 (Exhibit No. 3 marked.)

9 Q (By Ms. Zipp) You've been handed Exhibit 3. Do you
10 recognize this document?

11 A It appears to be the Rules for Nomination of Republican
12 Candidates adopted September 24th, 2005, of the State
13 Republican Party.

14 Q To your knowledge, during what time were these the rules
15 governing nominations of candidates by the Republican Party?

16 A I actually don't know.

17 Q I just wanted to ask you about -- there's no page numbers,
18 but the fourth page says in there -- there's a bolded
19 statement. Part 3, it's -- there's Part 3, "Nomination in
20 the Absence of a Valid Primary."

21 Would you read the second sentence in that bolded
22 paragraph, beginning "If...?"

23 A "If the 'winnowing election' established by Initiative 872
24 or something similar is in effect, actions under this rule
25 will determine which Republican would appear on the

1 'qualifying election' ballot in September.

2 Q What is your understanding of how the qualifying election
3 would have operated?

4 A I'm actually not sure. These rules were before I was State
5 Party Chairman. And I'll confess, I didn't -- I wasn't
6 involved with State Party business at that point in time.

7 Q Were there rules governing candidate nominations when you
8 became State Party Chair?

9 A I'm trying to recall. I know we had considerable
10 discussions about the development of the rules that we
11 eventually adopted in 2008. I don't recall if specific
12 rules were in force from prior to my time as Chairman. I do
13 remember the development of the rules that came into place
14 in 2008.

15 Q Are any of the documents that we have looked at today the
16 rules for nominating candidates in 2008?

17 A They are not, though they're very similar to the rules for
18 2010.

19 Q Okay.

20 MS. ZIPP: Can we get a copy of the 2008
21 nominating rules?

22 MR. WHITE: I think you have them, but --

23 A It was a two-page document with language that literally is
24 almost identical to this except for changing some dates I
25 think.

1 MS. ZIPP: Can we go off the record for a second?

2 (Discussion off the record.)

3 MS. ZIPP: Back on the record.

4 MR. WHITE: Actually, can we go back off for a
5 second?

6 MS. ZIPP: Sure.

7 (Discussion off the record.)

8 MS. ZIPP: All right. Back on the record.
9 Would you mark this as an exhibit?

10 (Exhibit No. 4 marked.)

11 Q (By Ms. Zipp) You've been handed a document marked as
12 Exhibit 4. Do you recognize this document?

13 A This appears to be a draft of the Rules and Order of
14 Business for the State Convention that the State Party held
15 this year in Vancouver.

16 Q Did you attend that convention?

17 A I did.

18 Q And you're familiar with this document?

19 A I -- I have seen this document before.

20 Q On Page 3 of this document, Article V, "Certification of
21 Candidates for Office" has been struck out.

22 What purpose did the "Certification of Candidates for
23 Office" serve?

24 A That was language from a -- it was either 2006 or prior
25 state convention that was struck. I'm not familiar with the

1 language other than to say that we did not utilize that in
2 2008, which was my first state convention. I believe our
3 chair for the rules committee took a 2006 set of rules,
4 since that was the last nonpresidential year state
5 convention, and started building his new rules from that, is
6 why this ended up on the strike-thru version here.

7 Q In general, if you know, what was the purpose of -- what was
8 certification -- excuse me, what was Certification of
9 Candidates?

10 A I'm actually not familiar with that process.

11 Q So Certification of Candidates is not a process that has
12 been used during your term as Chair?

13 A It's the -- this process we've gone over earlier is one we
14 used in both '08 and '10.

15 Q And when you say --

16 A Yeah.

17 Q -- "the process we went over earlier," you mean the
18 nominating process?

19 A The nominating rules, yes.

20 MS. ZIPP: Let's take a quick two-minute break.

21 (Pause in proceedings.)

22 MS. ZIPP: I have no more questions.

23 (Discussion off the record.)

24 MR. AHEARNE: I've got some questions.

25 THE WITNESS: Yes, sir.

1 EXAMINATION

2 BY MR. AHEARNE:

3 Q I'm going to try to just sort of jump around in the same
4 order that the State's attorney did because I just have some
5 follow-up questions.

6 First, going way back to when the deposition began, I
7 think you said you were in the State Senate from '03 to '06
8 and the State House from '99 to '02? Is that right?

9 A That is correct.

10 Q And when you were in the State Legislature were you a member
11 of the Republican Caucus?

12 A I was, yes.

13 Q Could you just briefly say what is the Republican Caucus?

14 A That's -- the members who are elected as Republicans in the
15 House form the House Republican Caucus generally, and the
16 members of the Senate who were elected as Republicans join
17 the Senate Republican Caucus generally, though some members
18 have actually been pushed out of the caucus on occasion in
19 the last few years. Fortunately, I was not among that
20 group.

21 Q Okay. And what's the purpose of caucus?

22 A I guess I'm a sports fan. I thought of it as a huddle
23 opportunity before we went out on the floor to strategize
24 about how best to advance our Republican principles and try
25 to be successful in advancing them on the floor of the

1 legislature.

2 Q And when you mentioned that some caucus members had been
3 pushed out --

4 A Yeah.

5 Q -- why were they pushed out?

6 A You know, I'm -- I'm not -- I wasn't there when that
7 happened, so I'm not certain of the details, but that has
8 occurred.

9 Q And what would the type of basis be for pushing somebody
10 out?

11 MR. WHITE: I'll object to the question.

12 Q (By Mr. Ahearne) You can still answer.

13 A Okay. I just wanted to clarify.

14 I would speculate that someone was considered to not be
15 working in concert with the rest of the caucus on a
16 consistent basis. That's my speculation.

17 Q Okay. But you're currently the Chair of the State
18 Republican Party, right?

19 A Yes, sir.

20 Q And no one ever talked to you about the Republican Caucus in
21 either the House or the Senate?

22 A In what time frame?

23 Q While you were the Chair of the State Republican Party?

24 A Well, I go down and I'll visit with them from time to time.

25 I hear second- and third-hand reports as to what happened,

1 but I don't have personal knowledge as to what happened.

2 Q Do you have any understanding one way or the other as the
3 Chair of the Republican State Party as to why any member of
4 the Republican either House or Senate Caucus was pushed out?

5 A Only based on second- and third-hand conversations.

6 Q And what's your understanding based on that second- and
7 third-hand conversations?

8 A Is that -- the report I hear, though it's -- it's vigorously
9 denied by Senator Roach, is that she made some inappropriate
10 comments about a Republican Caucus staffer recently that
11 resulted in her being excluded from Caucus. That's what I
12 have heard second- and third-hand on that situation.

13 Q And other than that alleged incident with Legislator Roach,
14 any other person been pushed out of the Republican either
15 House or Senate Caucus while you've been Chair?

16 A Well, it's unclear to me. In the House I've heard it
17 described as Tom Campbell choosing to not caucus. Others
18 relate it as he was pushed out. So I hear different things
19 second- and third-hand about that situation.

20 Q And is Campbell someone who generally adheres to the
21 Republican Party platform, doesn't adhere?

22 A I would say in my experience largely adheres, though he has
23 some differences every now and again. He's a -- in his
24 reelection campaign right now. He's involved in a vigorous
25 contest with another Republican candidate.

1 Q Moving on to --

2 You're currently the Chair, correct?

3 A Correct.

4 Q Are there other party officers beyond just the Chair?

5 A Yes. The officers who are elected by the entire State
6 Committee are the Chairman, the Vice-Chairman, the National
7 Committeeman and the National Committeewoman. And it's the
8 State Chairman, the National Committeeman, and National
9 Committeewoman who are members of the Republican National
10 Committee.

11 Q Okay. And very briefly, what's the process for selecting
12 those four party officers you identified?

13 A The State Chairman and Vice-Chairman are elected at the
14 January meeting in the odd-numbered year when we organize
15 again for the next two-year period, and so that the Chairman
16 and Vice-Chairman are elected then.

17 Under the National Party rules our National
18 Committeewoman and National Committeeman are elected --
19 there's a window in the year of the national convention,
20 which is in presidential years, where they are elected to
21 four-year terms.

22 Q And who pays for the process of selecting those four
23 Republican State Party officials?

24 A The State Party does.

25 Q If I can ask you to look at what's been marked as Exhibit 1

1 to your deposition, please.

2 A (Complying.)

3 Q Do you have that in front of you?

4 A I do, yes.

5 Q And under Paragraph No. 3, that states, "Individuals who
6 have contributed to the WSRP in the last four calendar
7 years." Do you see that?

8 A Yes, sir.

9 Q And these are ways to become a member of the Republican
10 State Party, correct?

11 A Yes.

12 Q And I noticed, frankly, looking at the prior document that's
13 a page behind that, it's a three-year. What was the reason
14 for changing it to four?

15 A As I recall, the thought process was that a four-year term
16 is pretty standard in politics -- the term of a president,
17 the term of a governor -- and that was the rationale for
18 that decision as I recall.

19 Q And does a person qualify as a member under this Factor
20 No. 3 only if they have contributed to the State Party or
21 does contributing to a State Republican candidate count as
22 well?

23 A Only to the State Party.

24 Q If I can ask you to look at Paragraph 6, which talks about,
25 in the last line, "demonstrated support of the Party, its

1 candidates, and programs." Do you see that?

2 A Yes, sir.

3 Q What's being referred to when it says "programs"?

4 A When I see that I see the activities that we carry out to
5 elect candidates. That's -- that's what I perceive. Now,
6 that was adopted in 1998, and I wasn't involved in the
7 debate over that language, but that's -- that's I guess my
8 sense of that.

9 Q And I see also it was revised in July of '08, correct?

10 A That's correct.

11 Q And you were the Party Chair in July of '08, correct?

12 A I was, yes.

13 Q And so your sense of that word "programs" is in essence the
14 election programs.

15 A Yes.

16 Q And then when it says "support," what's your understanding
17 of what "support" means? Does that mean support everything,
18 support most things?

19 A You know, it's not specific in this language. I see it as a
20 general support for the Party.

21 Q And how do you get a handle on the general support for the
22 Party?

23 A Uh-huh. Well, the most common way by which people become
24 members through Element No. 6 of that policy is those who
25 have declared on the Presidential Primary that they are

1 members of the Republican Party and are willing to do so
2 openly on a public document. So we consider that to be
3 very, you know, strong demonstration of support of the Party
4 for someone to have the willingness to do that.

5 Q And as the current Chair of the State Republican Party, how
6 do you measure whether someone supports the Republican
7 Party?

8 MR. WHITE: I'll object to the form of the
9 question.

10 Q (By Mr. Ahearne) You can answer.

11 A Okay. I guess I don't have a dictionary definition. I
12 would examine each particular circumstance to see if it met
13 this standard. And the one that's most common, the one I'm
14 most familiar with, is that Presidential Primary.

15 Q But to you as the current Chair of the State Republican
16 Party, what does it mean to you for someone to support the
17 Republican Party?

18 A To me it starts, and the main component, is a willingness to
19 be -- to publicly State that you were a member, which to me
20 means you have allegiance to the Party and its principles.
21 That's I think about the highest statement someone could
22 make on our behalf.

23 Q And when you say "allegiance," what do you mean by that?
24 Does that mean toeing the line of everything, most things,
25 what?

1 A It does not mean that someone has to toe the line on
2 everything, as you say. We are -- you know, we are a party
3 that's not necessarily monolithic, but we are united by
4 common principles that are important to us. And that's, I
5 think, the basis of the language.

6 Q What are the common principles that are important to the
7 State Republican Party?

8 A Well, it's not stated in this document. If you look to our
9 platform you could see.

10 In general, most Republicans would tell you
11 constitutional principles, limited government, low taxes,
12 more economic freedom, stronger national defense, would be
13 the top of the list.

14 Q So if a voter wants to find out what the principles are that
15 are important to the State Republican Party, they would look
16 at the State Republican Party platform?

17 A That -- that would be a wonderful place to look.

18 Q Would there be other places that the voters could look?

19 A You certainly could look to our highest profile candidates
20 for statewide office, would be a place to look as well. And
21 I would encourage people to look at the National Party
22 platform, though that only comes out every four years, as
23 well.

24 Q Should voters look at the county level platforms as well?

25 A Absolutely, absolutely, especially since that sometimes will

1 address more local issues that aren't gotten into in a
2 national or State Party platform.

3 Q And does the Republican State Party have legislative
4 district platforms in addition to the county platforms?

5 A It's -- I'm not aware of legislative district platforms.
6 There are some groups that aren't part of the formal Party
7 structure that get together on a legislative district basis
8 in some of the Eastern Washington counties that are multiple
9 county leg districts. But for the most part that I'm aware
10 of, the platforms are at the county level.

11 Q Is there a difference between --

12 Well, I'll just --

13 Strike that.

14 What's a resolution? Because I've seen the Party
15 platform and I've --

16 A Yeah.

17 Q -- seen there's, like, resolutions.

18 A Yeah.

19 Q What's a resolution in the State Party?

20 A An expression of policy, an action by the body, by the State
21 Committee.

22 Q And do local county Republican Parties have resolutions as
23 well?

24 A I -- I'm sure they do.

25 Q As State Party Chair do you review or monitor those county

1 resolutions?

2 A I do not. We are firm believers in local control.

3 Q Does the State Republican Party have any process where they
4 review the county platforms to ensure they're consistent
5 with the State Party platform?

6 A Well, the process we use is, under our rules, each county
7 gets a representative on the State platform committee. And
8 that's designed to bring their experience with their county
9 platform to the state platform and hopefully help in that
10 process.

11 Q But does the Republican State Party have any process where
12 they review the county platforms to ensure the planks of the
13 county platform are consistent with the State platform?

14 A As a state chairman, as a State Committee, no, although that
15 state convention is an official State Party function. So
16 having that committee structure there is a way for us as a
17 State Party organization to try to at least address the
18 concerns of having that input from each of the counties and
19 each of their county platforms.

20 Q Now, do the state Republican parties in other states have
21 state platforms as well?

22 A That I'm aware of, yes. I've not taken an exhaustive
23 survey.

24 Q Do the State Party Chairs ever get together in the
25 Republican Party?

1 A Yes. Three times a year there's Republican National
2 Committee meetings. And the Republican National Committee
3 is comprised of the State Chairman, National Committeeman,
4 National Committeewoman of all 50 states plus six
5 territories and possessions. So 168 total.

6 Q And is there any process in the National Republican Party to
7 ensure that the State Republican Party platforms are
8 consistent with each other?

9 A In a similar way that we have the state process of having a
10 representative from the counties on the platform committee,
11 each state, territory, and possession gets two
12 representatives on the platform committee for the national
13 convention. So that's the process that's used to try to
14 bring input from each of the individual state and territory
15 platforms.

16 Q And I understand your answer is to explain how there's input
17 from the states and the territories and possessions --

18 A Yep.

19 Q -- for the national platform. Correct?

20 A Right.

21 Q And to your knowledge, does the national platform have any
22 process to then go back and review the State Party platforms
23 to ensure the State Party platforms are consistent with each
24 other?

25 A Not that I'm aware of.

1 Q Is there any process to ensure that the State Party
2 platforms are consistent with what the group as a whole
3 adopts as the national party platform?

4 A Well, the process I just described is, I think, designed in
5 part to try to reach that result of having the
6 representatives from every state, territory, and possession
7 on the national platform; hopefully at least lends itself to
8 that sort of discussion.

9 Q Okay. Also, while we're on the topic of platforms, I
10 thought you said at some point that there's a new policy
11 requiring nonincumbents to let the Party know what platform
12 planks they agree with or disagree with, something like
13 that?

14 A Yes.

15 Q And is this a new policy?

16 A It's new this year.

17 Q And was there any sort of similar policy prior to this year?

18 A Not -- there certainly was not earlier in my term. And I'm
19 not aware of it having been in place before I was Chairman.

20 Q And why is this policy limited to nonincumbents?

21 A My recollection of the debate is that there was a feeling
22 that incumbents have a voting record by which they can be
23 observed and considered. And so the questionnaire asking
24 them if they agreed with the principles of the platform
25 wasn't so necessary for incumbents since they had a voting

1 record.

2 Q Looking back at Exhibit 1 again, I understand this to be the
3 current rules of the Republican State Party on how one
4 becomes a member of the Party; is that correct?

5 A Yes.

6 Q Does the State Party have any rules or procedure for
7 expelling someone as a member?

8 A We do not have a written policy on that, though the State
9 Committee, as the author of this policy, would certainly
10 have the authority to do so. But at present we do not have
11 a written policy on that issue.

12 Q Does the State Party have any sort of informal policy on
13 expelling members?

14 A In terms of the State Committee, we do have some provisions
15 in our bylaws about removing somebody from the State
16 Committee if they support a candidate against the -- a
17 non-Republican candidate against a Republican in a general
18 or special election. I know some of -- I understand some of
19 the counties have provisions about dealing with precinct
20 committee officers who may on the same sorts of issues, but
21 I'm not intimately familiar with any of the details there.

22 Q And in your answer, when you said "some counties have" --

23 A Yeah.

24 Q -- you meant the county Republican Party.

25 A Exactly, county Republican Party.

1 Q And while you've been Chair has the State Republican Party
2 ever expelled anyone as a member?

3 A We have not from the State Committee.

4 Q Well, just from membership in the State Republican Party.

5 A Oh, no, we have not.

6 Q And --

7 A Though we do -- you know, in the -- for example, if
8 someone -- if it's been more than four years since they've
9 contributed, then they fall off, for example, but this -- as
10 this policy kind of implements itself that happens. There
11 was no formal action by the State Committee directed at any
12 one individual in particular, but it's just the operation of
13 the rules led to some people being dropped from membership
14 status.

15 Q And at least during your time as Chairman of the State
16 Republican Party, has the State Party ever expelled someone
17 as being a member of the Party?

18 A We have not.

19 Q Does the Republican Party --

20 Well, strike that.

21 You mentioned -- you testified something about the
22 Voter Vault?

23 A Uh-huh.

24 Q Is that a list that the Republican Party keeps?

25 A Online voter database.

1 Q When you say "online" --

2 A Secure online voter database.

3 Q "Secure" meaning it's only available to the people --

4 A Authorized --

5 Q -- the Republican Party allows to use it.

6 A We provide user names and passwords to authorized users.

7 Q And does the Republican State Party keep any list of who its
8 members are?

9 A What we usually -- what I've used in my membership -- my
10 membership -- my Chairmanship is the -- the best list is the
11 list of people who participate in the Presidential Primary
12 because it's easy to get, it's in one place, and there's so
13 much overlap. Because I've done a little bit of checking in
14 the past, and almost everybody who took a Republican ballot
15 in the Presidential Primary -- you know, if they're a
16 precinct committee officer, they polled that. If they
17 donated money to us, they polled that. So that's the
18 easiest list for us to use of membership.

19 Plus the other major category is that
20 self-identification that we go through when we call people
21 and knock on their doors and see if they consider themselves
22 Republican.

23 Q And do you believe them when they tell you they consider
24 themselves Republican?

25 A I think in most instances they're reliable. They are

1 mortals, but I think in most instances they are reliable.

2 Q That's a -- as far as compiling its list of members, does
3 the State Republican Party trust the person when they tell
4 you "I am a member of the Republican Party" or "I believe in
5 the Republican Party principles"?

6 A We do file it in the way they respond in that situation,
7 yes.

8 Q So you trust the accuracy of their response or their
9 statement?

10 A It's trustworthy enough to, I think, merit that response
11 being considered accurate.

12 Q And becoming a member of the State Republican Party?

13 A Yes.

14 Q What's the State Republican Party's political message?

15 A Well, the Party platform, every two years, is a big part of
16 it, but so are -- the positions of our most prominent
17 candidates can be just as much a part of that message.

18 Q And when you say "most prominent candidates," are there
19 certain offices that you consider to be the most prominent
20 offices?

21 A Statewide and congressional offices are the most prominent
22 because they respond to so many people, the large number of
23 people they represent.

24 Q So is my understanding correct, when you talk about the
25 prominent candidates it's the candidates for the statewide

1 offices and congressional offices?

2 A Yes. And, frankly, there's a subcategory. Some statewide
3 offices -- not all statewide offices are created equal.
4 Governor is by far the most prominent. To a less --
5 Attorney General can be fairly prominent. And the rest of
6 them are very important, but not quite as prominent.

7 Q What's the agenda that Republican State Party seeks to
8 advance?

9 A Well, there's a number of things. In general, we are
10 committed to the adherence to constitutional principles. We
11 believe in limited government; very concerned about levels
12 of taxation and making the free market economy more
13 productive in creating private sector jobs; strong national
14 defense. Those are some of the most important principles of
15 the Party.

16 Q Any other ones that come to mind sitting here as the Chair
17 of the State Republican Party?

18 A Oh, there's a number of them. You know, people are
19 concerned about securing the border and not having amnesty
20 in immigration policy; a better budgeting process in the
21 State of Washington. Our platform has a whole host of
22 issues: education, transportation. I mean, we're
23 interested in a lot of different factors related to
24 government at the federal and state level.

25 Q You mentioned the platform. If a voter wanted to know what

1 the agenda that the State Republican Party seeks to advance
2 is, would one way the voter finds out to be looking at the
3 State Party platform?

4 A Yes.

5 Q Would there be other places the voter should look?

6 A I think the statements and positions of our most prominent
7 candidates is also a place to look.

8 Q Okay. And I'm using different phrases because, frankly, I'm
9 looking at your Complaint and you used different phrases,
10 and I want to make sure that there's no -- I'm not missing
11 something.

12 But my question is: What does the Republican State
13 Party and its adherence stand for?

14 A Many different things; a lot of the principles I just
15 enunciated. They -- you know, adherence to constitutional
16 principles; limited government; a commitment to economic
17 growth and national security; respect for the rule of law.
18 That's among the principles.

19 Q And if a voter wanted to find out what the Republican Party
20 and its adherence stand for, where should the voter look to
21 find that out?

22 A Well, the State -- at the state level, the State platform is
23 a good place to look. For more local issues, the county
24 party platform. For statewide things, our prominent
25 candidates there. But legislative candidates and local

1 candidates, too, for issues of that legislative or more
2 local nature as well.

3 Q If a voter wanted to find out what the Republican State
4 Party's vision of the future is, would they look anywhere
5 else other than the sources you've mentioned already?

6 A Those would be the best places to look. I think the
7 platform and our candidates are the best expressions to the
8 public of what we believe in and what we hope to achieve in
9 future years.

10 Q Okay. And if I were to ask you, "How does a voter determine
11 the positions on important issues of the day that the
12 Republican State Party takes," would they look to the same
13 kinds of places that you have testified about already?

14 A Yes.

15 Q And the Republican State Party is a Plaintiff in this
16 current lawsuit, right?

17 A That's my understanding.

18 Q And is one position of the Republican Party that the Court
19 should strike down Initiative 872 as unconstitutional?

20 A Yes.

21 MS. ZIPP: Objection as far as it requires
22 conclusions as to what the Party would think. He's not a
23 30(b)(6) witness.

24 MR. AHEARNE: I will note that the Democratic
25 Party is not objecting to questions.

1 Q (By Mr. Ahearne) Mr. Esser, you are, as Chairman of the
2 State Republican Party, one of the Plaintiffs in this
3 lawsuit, correct?

4 A Yes.

5 Q And is it one position of yours that the Court should strike
6 down Initiative 872 as unconstitutional?

7 A Yes, it is.

8 Q And is it your understanding that the Republican Party's
9 position as Plaintiff in this lawsuit is that the Court
10 should strike down Initiative 872 as unconstitutional?

11 A Yes, that's my understanding.

12 Q Do you believe Initiative 872 is unconstitutional?

13 A Is unconstitutional? Yes, I do.

14 Q Why?

15 A I think the -- among the flaws of 872 are the confusion it
16 creates among voters as to which candidates are affiliated
17 or not with the Republican Party based on the preference
18 language that appears on the ballots and on websites where
19 candidates' filing information is included.

20 In addition, we have the issue of people who are
21 hostile to the Republican Party and our principles having an
22 ability to select candidates who will advance to the general
23 election ballot in a manner that I think most voters, or at
24 least a large number of voters, concludes is our Party's
25 representative, our Party's candidates. And similarly, with

1 the precinct committee officers having people who are
2 hostile to the Republican Party being able to choose our
3 party officials.

4 Q Sitting here today are there any other reasons you believe
5 Initiative 872 is unconstitutional?

6 A Those are the ones I'm recalling at the moment.

7 Q Now, you've testified about confusion. Do you recall that
8 generally throughout the course of today?

9 A Yes.

10 Q Is using "GOP" confusing to voters?

11 A It can be to some. That's -- I've seen some polling to that
12 effect.

13 Q Do you believe using "GOP" instead of "Republican" is
14 confusing?

15 A Well, it isn't to me, but I have seen polling that indicates
16 it is for some folks.

17 Q And do you believe that when a candidate uses the letters
18 "GOP" instead of the spelling of the word "Republican," that
19 that's confusing to voters?

20 MR. WHITE: I'll object to the form of the
21 question.

22 A It can be. Even though I don't presume it's the candidate's
23 intent for it to be confusing, it may be confusing to some
24 voters. That is possible.

25 Q Your prior life as a politician is showing through.

1 Question: In 2008 did the Republican Party nominate
2 candidates for statewide partisan offices and congressional
3 offices?

4 A For many of them, yes.

5 Q Do you recall who any of those Republican Party nominees
6 were?

7 A Yes, at least a number of them. We nominated Dino Rossi as
8 our candidate for Governor; Rob McKenna as our candidate for
9 Attorney General; Doug Sutherland as Commissioner of Public
10 Lands; Sam Reed as our nominee for the Secretary of State's
11 Office. We nominated the three incumbent members of
12 Congress: Dave Reichert, Doc Hastings, Cathy
13 McMorris-Rodgers. In the 3rd District primary we nominated
14 Christine Webb as our candidate for that congressional
15 district.

16 Those are the ones I'm recalling at the moment.

17 Q And just going through the corners of the State Legislative
18 Building --

19 A Yeah.

20 Q -- did the Republican State Party nominate a candidate for
21 Treasurer?

22 A We did. Allen Martin was our Party's nominee for State
23 Treasurer.

24 Q And how about for Lieutenant Governor?

25 A I -- yes, Marcia -- she got married. I think it's Horvitz

1 (phonetic).

2 Q And you testified, with respect to Exhibit 2, that you
3 believe the Party nomination rules were similar to Exhibit 2
4 for the 2008 year; is that correct?

5 A Yes. It -- yes.

6 Q And the Party nominees that you just described, were they
7 nominated pursuant to whatever the rules were for the
8 2008 --

9 A Yes.

10 Q -- year?

11 A Yes, they were.

12 MR. AHEARNE: And those are the rules that
13 Mr. White is going to be providing later on, Mr. White?

14 MR. WHITE: Yes.

15 MR. AHEARNE: Okay.

16 Q (By Mr. Ahearne) And if I understand it correctly,
17 Exhibit 2 is the nominating rules for the 2010 election
18 cycle; is that correct?

19 A That is correct.

20 Q And did the Republican State Party use the rules that are in
21 Exhibit 2 to nominate candidates for statewide office?

22 A We -- well, the rules are in force. There's one statewide
23 partisan office this year. And the State Committee
24 decided -- didn't decide to nominate in that particular
25 race, as of yet at least.

1 Q And what is that one statewide office?

2 A U.S. Senate.

3 Q And did the State Republican Party nominate any candidates
4 for the congressional offices that are on the ballot this
5 year?

6 A In three of the congressional districts the ones with
7 Republican incumbents: Dave Reichert, Doc Hastings, and
8 Cathy McMorris-Rodgers.

9 Q And do I understand correctly, then, that the Republican
10 State Party has not nominated a candidate for the other
11 congressional seats that are open this year?

12 A As of yet we have not selected a nominee.

13 Q And just so the dates don't get missed here, today is the
14 primary day in the State of Washington, correct?

15 A Yes, indeed.

16 Q So as of the day of the primary the State Republican Party
17 has not nominated anyone for the congressional seats other
18 than the three that Republicans currently hold.

19 A That is correct.

20 Q And of today the State Republican Party has not nominated
21 anyone to be the candidate for the U.S. Senate seat that's
22 open.

23 A That is correct.

24 MR. AHEARNE: I'm surprised that didn't draw an
25 objection from the Democrat attorney.

1 Q (By Mr. Ahearne) Does Initiative 872 prevent the State
2 Republican Party from controlling its own nomination
3 process?

4 A The challenge for us is that we -- we can have our
5 nominating process, but then it gets confused in all of the
6 information that the State distributes through its website
7 and through the ballots.

8 Q But as we sit here today, does the Republican State Party
9 control its own nomination process?

10 MR. WHITE: I will object to the form of the
11 question.

12 A We do control this process (indicating) that Exhibit 2
13 refers to.

14 Q And the process that Exhibit 2 refers to is the Republican
15 State Party nominating its candidates for elective office;
16 is that correct?

17 MR. WHITE: I will object to the form of the
18 question.

19 A Yes.

20 Q And just so we're clear, what's your understanding of what
21 Exhibit 2 is?

22 A Exhibit 2 are the Rules for Nomination of Candidates for the
23 Washington State Republican Party in 2010.

24 Q Are those the rules that will apply in future election years
25 as well if they are not changed?

1 A That's a subject of some debate because we're an
2 organization that organizes again every two years. My
3 advice always to the State Committee, "Let's go ahead and
4 adopt it and not take anything for granted," though I could
5 make the argument that it remains in effect as well."

6 Q If I can actually ask you to look at the Complaint again.
7 And I know it's not an exhibit, but it will make it easier.

8 If you look at Page 21, Line 6 refers to precinct
9 committee officers. Do you see that?

10 A Yes.

11 Q And then starting at Line 7 it says, "Conducting such
12 elections" -- precinct committee officer elections -- "in a
13 manner that is the same as or substantially similar to the
14 process approved by the Party for the selection of the
15 State's delegates to the Party's national convention shall
16 be deemed acceptable for the selection of precinct committee
17 officers." Do you see that?

18 A I do. I'm trying to get the context of where (d) starts
19 off.

20 Okay. I moved back to Page 20, Line 11, so I could see
21 the start of that section.

22 Q And that section starts "Plaintiffs" --

23 A Yeah.

24 Q -- "and Republican State Party," et cetera, "are entitled to
25 a" --

1 A Okay.

2 Q So going back to that sentence that I read from Line 7
3 through 9 on Page 21 -- do you see that?

4 A Yes.

5 Q -- could you explain to me what that means?

6 A The process approved by -- approved by the Party for
7 selection of the State's delegates to the Party's national
8 convention, there's two parts to that because we're unique
9 in that we allocate some of our delegates based on the
10 Presidential Primary and some based on the caucuses. But in
11 both of those systems we require participants to declare
12 that they are members of the Republican Party before they
13 can participate in that decision-making process on both the
14 caucus side and the Presidential Primary side.

15 Q And I don't want to be putting words in your mouth, but I do
16 want to be sure I understand what's meant by this (d). Is
17 my understanding correct that what's acceptable to the
18 Republican State Party and you, as a Plaintiff, is if the
19 precinct committee officer elections require the person
20 participating to declare their membership in the Republican
21 Party?

22 MR. WHITE: I'll object to the form of the
23 question.

24 Q (By Mr. Ahearne) Okay. Let me just -- I think you
25 understand. I'm just trying to figure out what this means.

1 MR. WHITE: I'm not sure you finished the question
2 on that one.

3 Q (By Mr. Ahearne) What would be -- looking at Line 7 through
4 9 on Page 21 -- you see that?

5 A Yes.

6 Q -- could you explain to me what would be deemed acceptable
7 for the selection of precinct committee officers?

8 A Well, we're --

9 MR. WHITE: And I will again object to the form of
10 the question.

11 A And I, and we, are open to ideas about how to solve this in
12 a way that's acceptable to everyone. So I'm open to ideas,
13 but the principle --

14 Q And let me interrupt for a second. I'm not asking for the
15 laundry list of ideas.

16 A Yeah, right.

17 Q What I'm asking for is when its referring to State process
18 for delegates to national convention, I'm trying to figure
19 out what's the process that would be deemed acceptable for
20 the selection of precinct committee officers in this part of
21 the Complaint?

22 A And what I'm trying to express, and I think what the
23 pleading did, too, was that it's not stating a specific
24 answer, but a -- the answer that we come up with needs to
25 respect the principles that are embodied in these other two

1 processes that we do find acceptable, that preclude those
2 who are hostile to the Party from participating in our
3 process.

4 Q And what's the principles in the selection of State's
5 delegates to the Party's national convention that you would
6 deem acceptable to be a principle in the precinct committee
7 officer selection?

8 A Avoiding, you know, allowing people who are hostile to have
9 any say in the process. And I think that's why the language
10 "or substantially similar to" is used, so that it wouldn't
11 have to be identical to those systems, but find a way to
12 reach the same result is what we desire.

13 Q Would you just give me an example of one way to reach that
14 result?

15 A I -- if --

16 MR. WHITE: Go ahead.

17 A If we had a type of primary system where people had to
18 choose the type of party they wanted to select their ballot
19 for, that would be one way to adhere to that principle. I'm
20 sure there are others, but that's one.

21 Q Okay. We're getting near the end, at least on my questions.

22 The State's attorney had asked you some questions about
23 the Interrogatory answer and what you were going to be
24 testifying about. And I'm not going to rehash everything,
25 but you talked about confusion based on conversations that

1 you've had.

2 A (Witness nodding head.)

3 Q Do you recall that generally?

4 A Yes.

5 Q Was there any other basis for your testimony about there
6 being confusion among voters?

7 MR. WHITE: I will object to the form of the
8 question.

9 A That's -- that's the basis of my understanding. And my --
10 my testimony here today is based on the conversations and
11 interactions I've had with individuals over the last
12 two-plus years.

13 Q Okay. When you say "conversations and interactions," are
14 there any interactions other than conversations?

15 A No, they would all be conversations.

16 Q And the time period over which you had these conversations
17 was about how long?

18 A Certainly since the decision by the U.S. Supreme Court in --
19 I think it was early 2008, middle 2008.

20 Q March of 2008?

21 A That sounds about right.

22 Q So these conversations you've had were between March of 2008
23 and now.

24 A Roughly the last couple years.

25 Q Okay. And can you tell me about how many people you talked

1 to in these conversations?

2 A It would be well into the hundreds.

3 Q Do you know if the people you talked to were actual voters?

4 A I couldn't prove it. They were certainly voting age people
5 who I had conversation with that seemed to be interested in
6 the electoral process.

7 Q Other than that, any other way you would determine whether
8 they --

9 A Well, and I mentioned the media, the media conversations as
10 well.

11 Q And do you know if the reporters that you were talking to
12 were actually voters?

13 A I have no idea about that, but they fulfilled their roles
14 whether they vote or not with the information they
15 disseminate out to the public. And they sort of accentuate
16 the confusion that's already existent in the preference
17 language.

18 Q If I understood it correctly, the confusion you're talking
19 about is people not understanding what the "Prefers" blank
20 "party" means; is that correct.

21 MR. WHITE: I will object to the form of question.

22 MR. AHEARNE: Well, I'll strike it.

23 Q (By Mr. Ahearne) When you're referring to voter confusion,
24 what are you referring to?

25 A Based on the conversations I've had with people, when they

1 see "Prefers Republican Party," at least many of them reach
2 the conclusion that means that candidate is affiliated with
3 the Party, is a representative of the Party, is a candidate
4 of the Party. And that creates that confused reaction.

5 Q Any other types of confusion?

6 MR. WHITE: Object to the form of the question.

7 A That's the type of confusion that I'm recalling right now.

8 Q Do you recall right now any other kind of confusion?

9 A I'm not sure if it's so much a confusion question, the
10 aspect we talked about previously about people who are
11 hostile to the Republican Party getting to vote in the
12 primary. But the confusion issue does center around the
13 "Prefers" blank "party" language.

14 Q And you also testified -- at some point you talked about
15 confusion from candidates utilizing the Republican Party
16 name or using the Republican Party name. Were you referring
17 to that "Prefers" blank "party" language as well?

18 A Well, that's a big part of it, but when they -- you know, in
19 their -- almost universally in their voter statement in the
20 voters guide they'll, you know, list themselves as
21 Republican in other literature, which people see that. And
22 then when they see in the ballot the word "Republican"
23 appearing, too, I think that fosters a confusion as well.

24 Q Okay. You talked about the Senate race that's going on
25 right now.

1 A Yeah.

2 Q Do you recall that generally?

3 A Yes.

4 Q And you referred to three candidates that are authorized to
5 use the Republican --

6 A Authorized to use Party resources.

7 Q And you talked about two candidates who are not authorized.

8 A Yes.

9 Q And is it the Republican Party's position --

10 Strike that.

11 Is it your position that those two unauthorized
12 candidates should be prohibited from stating they prefer the
13 Republican Party?

14 MR. WHITE: I'll object to the form of the
15 question.

16 A I think a means needs to be found to avoid that sort of
17 confusion. I think we should have a process that allows the
18 parties to have control over their names.

19 Q And when you say "control over their names," what do you
20 mean by that?

21 A That candidates can't run in such a way as to make it appear
22 they're representatives of the Party without some sort of
23 process for the Party to either approve or disapprove that
24 should they so desire.

25 Q And you're a Plaintiff in this lawsuit, right?

1 A Yes, sir.

2 Q Is it your position as a Plaintiff in this lawsuit that the
3 Federal Constitution prohibits a candidate from stating that
4 they prefer the Republican Party?

5 MR. WHITE: I'll object to the form of the
6 question and to the extent that it calls for a legal
7 conclusion from the witness.

8 A Could you repeat that?

9 MR. AHEARNE: Would you read that back?

10 (At which time the record was read back.)

11 A I would -- how I would phrase it is that it's
12 unconstitutional for candidates, unless, you know, they have
13 some sort of authorization from the Party, to make that
14 representation about being affiliated with the Republican
15 Party through the preference language.

16 Q So I'll adopt your friendliment (phonetic).

17 A Yeah.

18 Q As a Plaintiff in this lawsuit is it your position that
19 unless the Republican Party authorizes a candidate to say
20 so, the Federal Constitution prohibits a candidate from
21 stating he or she prefers the Republican Party?

22 MR. WHITE: I will object to the form of the
23 question and to the extent that it calls for a legal
24 confusion from the witness.

25 A What I think is required is some process that at least

1 allows us the ability to do so. A party may decide, in
2 their utilization of their First Amendment Rights, to not
3 make such a decision, but I think to deny us the ability to
4 even have that consideration is what's unconstitutional.

5 Q So I'll try to amend my question for that caveat as well.

6 Is it your position as a Plaintiff in this lawsuit that
7 the Federal Constitution prohibits a candidate from saying
8 "Prefers Republican Party" unless the Republican Party is at
9 least given an opportunity to authorize the use of that
10 statement or take a pass?

11 MR. WHITE: I will object to the form of the
12 question and to the extent that it calls for a legal
13 conclusion from the witness.

14 A Yes.

15 Q Going back to the -- I had one other question on --

16 You know, actually, I think you answered it.

17 MR. AHEARNE: I have no more questions.

18 MR. PHARRIS: Emily?

19 MR. WHITE: Yes, I have a few questions.

20 MR. AHEARNE: Was that a pass from Emily?

21 MR. THROOP: Okay.

22 MR. WHITE: Do you have questions?

23 MS. THROOP: I don't want to do that without
24 talking with you first.

25 (Recess taken from 1:40 to 1:45 p.m.)

1 MS. THROOP: I do have a few questions.

2

3 EXAMINATION

4 BY MS. THROOP:

5 Q You were testifying earlier about how the various Party
6 platforms were formulated. And I just wanted to clarify
7 some portions of that.

8 I believe that you testified that this process starts
9 with precinct caucuses and members of the precinct caucuses
10 filled out a survey.

11 A Correct.

12 Q And then the precinct caucuses elect members to go to the
13 county committee.

14 A They elect delegates and alternates to go to the county
15 conventions.

16 Q Okay. And then those delegates at the county conventions
17 formulate a county platform.

18 A Correct. They consider, amend, and adopt the county
19 platform.

20 Q Okay. And then those same delegates then elect some of
21 their own members to go to the state convention.

22 A They elect delegates and alternates to the state convention,
23 yes.

24 Q Okay. And then those delegates and alternates who were
25 elected by the county convention go to the state convention

1 and formulate the state platform.

2 A Correct.

3 Q And then -- so just to clarify, we have the precinct
4 caucuses who are electing delegates to the county
5 convention, who are then electing some of their own members
6 to the state convention. And --

7 A Yes.

8 Q Okay. And then in a presidential year the state convention
9 elects delegates to the national convention.

10 A That is correct.

11 Q And then those delegates elected by the state conventions
12 are the ones that help formulate the national platform.

13 A That is correct.

14 Q So is it proper to say that there's a lot of consistency
15 along all levels, from the local level to the national
16 level, as far as it is the delegates or it is
17 representatives of those delegates that are representing the
18 Party at all levels to formulate the platforms?

19 A That is my experience. And I'm not aware of inconsistencies
20 between the national Party platform, the State Party
21 platform, and the county party platforms in recent years.

22 Q And that's just -- just to clarify that, you testified to
23 some general principles of the Republican Party, including
24 limited government, lower taxes, supporting constitutional
25 principles, supporting the free market, supporting the

1 defense force. And in your opinion these platforms that are
2 formulated by a consistent body of people from the local
3 level to the national level have consistency among those
4 general principles of the Republican Party.

5 A In my experience, those principles are consistently
6 represented in the platforms at every level of the
7 Republican Party.

8 MS. THROOP: Thank you. No more questions.

9 MR. WHITE: Just a few questions.

10

11

EXAMINATION

12 BY MR. WHITE:

13 Q Does the Republican Party also operate under Roberts Rules
14 of Order?

15 A Yes. For provisions that aren't specifically addressed in
16 our bylaws or other rules, Roberts Rules is the default that
17 is utilized for conducting meetings.

18 Q And Ms. Zipp asked you about prior primary systems and
19 whether the Republican Party had picked a nominee under
20 those systems. Did you understand her to be asking whether
21 that was a separate process from the State primary system?

22 A I -- I wasn't entirely clear.

23 Q Do you know whether the Republican Party prior to your time
24 as Chairman had a process for selecting nominees that was
25 separate from the State primary election system?

1 A Well, in the Montana system we had a situation where only
2 people who had checked the box for Republican were allowed
3 to vote to select the candidate who would be the Republican
4 candidate on the ballot in the general election.

5 And we've already learned that the Blanket Primary had
6 constitutional defects.

7 That's what I remember about those two systems.

8 I wasn't State Party Chair before 2007. And I'm just,
9 from my personal experience, not recalling what the
10 specifics of nomination procedures might have been.

11 Q When you ran for office for State Representative, after the
12 primary --

13 A Yep.

14 Q -- did you get any document from the State regarding the
15 results of the primary election?

16 A I don't recall receiving a document after the primary
17 election.

18 (Brief interruption.)

19 (Pause in proceedings.)

20 MR. WHITE: Sorry. That's our 2:00 witness who is
21 sitting in traffic because of a presidential motorcade, ETA
22 unknown.

23 Q (By Mr. White) (Counsel reviewing notes.)

24 Do you recall some questions from Ms. Zipp about the
25 2007 primary election?

1 A I do.

2 Q During the 2007 primary election season did you hear from
3 Republican activists at the county level about partisan
4 races being held there?

5 A I certainly would have had some conversations with folks
6 about some of the elections. I'm not recalling any
7 specifics at the moment.

8 Q Okay.

9 A As I think on it, the one election I remember prominently
10 from 2007 was Dan Satterberg's election for King County
11 Prosecutor. That is the one that does stand out in my mind
12 now.

13 Q Does the State of Washington regulate in any way the content
14 of the Republican Party's political advertising?

15 A They -- they do.

16 Q How does the State regulate that?

17 A Well, the Public Disclosure Commission has rules and
18 regulations. And the most prominent situation we're
19 involved with now is a case where they're attempting to
20 punish us for some mail communications we made in 2008 to
21 our members regarding our nominee for Governor.

22 Q When the Republican Party issues political advertising, is
23 it required by State law to repeat the preference that has
24 been expressed by the candidate on his Declaration of
25 Candidacy?

1 A Yes, it is.

2 Q Do you view that as a harm to the Republican Party message
3 if that candidate is not advancing the principles of the
4 Republican Party?

5 A I do.

6 Q Why?

7 A Well, it compounds the problem with the preference language
8 in the -- on the ballots and in the registration. It just
9 is this loop of people seeing the word "Republican" in other
10 contexts, and then seeing "Prefers Republican Party" just
11 compounds the confusion people have about affiliation with
12 the Party.

13 Q (Counsel reviewing notes.)

14 MR. WHITE: No further questions.

15 Orrin, do you have any questions?

16 MR. GROVER: I have no questions.

17 MS. ZIPP: Let's take five minutes for us to
18 confer.

19 (Recess taken from 1:50 to 1:55 p.m.)

20 (Discussion off the record.)

21 MS. ZIPP: Okay. I just have a few questions.

22

23 FURTHER EXAMINATION

24 BY MS. ZIPP:

25 Q Early on in our conversation you stated that as of this year

1 the Republican State Party asks nonincumbent candidates to
2 affirm that they agree with the platform or asks them about
3 whether they agree with the State platform. Is that -- do
4 you recall that?

5 A If they agree with the principles of the platform. And it's
6 nonincumbent congressional and statewide candidates.

7 Q And when you answered questions from the Grange attorney you
8 mentioned a questionnaire regarding whether candidates agree
9 with the State Party platform.

10 A Yes.

11 Q Is the questionnaire the mechanism for asking candidates
12 whether they -- to what extent they agree with the
13 principles of the Republican Party?

14 A Yes.

15 Q Is it a written standardized questionnaire?

16 A Yes.

17 Q Is the questionnaire provided to -- same questionnaire
18 provided to all levels of candidates?

19 A All congressional and statewide nonincumbent serious
20 candidates, to get back to the term we described before.

21 Q So prior to providing the questionnaire to a candidate a
22 decision is -- do I understand correctly that a decision is
23 made whether the candidate is a serious candidate or not a
24 serious candidate?

25 A Yes.

1 Q In your capacity as the Chair of the Republican Party are
2 you the person who is making that decision?

3 A Yes.

4 Q And are there criteria that you have in mind when you are
5 making that decision?

6 MR. WHITE: I'll --

7 A Yes.

8 MR. WHITE: -- object to the form of the question.

9 Q (By Ms. Zipp) Can you tell me what those criteria are?

10 A Among the criteria are: Are they fund-raising? Are they
11 seeking endorsements? Are they out campaigning openly and
12 publicly? Are they doing the kinds of things that you need
13 to do to be successful as a candidate?

14 Q Are those the only criteria that come to mind?

15 A Those -- those were the most -- the ones I can recall right
16 now.

17 Q Do you include in those criteria whether you consider the
18 person to be a Republican or not?

19 A That's another -- separate from the word "serious." I mean,
20 "serious Republican," and to me "Republican" means they're a
21 member of the Party and someone in good standing.

22 Q So do I understand correctly that in evaluating a candidate,
23 a potential candidate who would be supported by the State
24 Republican Party, the first step is to consider whether that
25 person is a Republican, a member of the Republican Party,

1 then are they a serious candidate, and following that, if
2 the answers to those two questions are yes and yes, then
3 they are given this questionnaire?

4 A I want to make sure I'm answering that. That seemed to be
5 two or three questions there. I just want to make sure I'm
6 answering them accurately.

7 Q So why don't you walk me through the steps of the process --

8 A Right.

9 Q -- when a -- that lead to -- the decision point that lead to
10 a candidate being deemed to be a candidate of the State
11 Republican Party.

12 A Well --

13 MR. WHITE: I will object to the form of the
14 question.

15 A If we're talking about a nominee, that's the process that's
16 addressed in Exhibit 2 regarding -- you know, the State
17 Committee makes the decision for statewide offices, a vote
18 taken at one of our State Committee meetings.

19 There is this process we just started this year for the
20 nonincumbent congressional and statewide partisan candidates
21 to have them respond to the questionnaire to see if they're
22 supportive of the principles in the platform.

23 That information is shared with our Executive Committee
24 to see if there's anything worthy of note and to take any
25 decision or action they deem appropriate. And this year no

1 action was taken by the Executive Committee based on the
2 results of any of those particular surveys. And the only
3 races, congressional or statewide, where we've endorsed are
4 of the three incumbents in accordance with the policy: Dave
5 Reichert, Doc Hastings, and Cathy McMorris-Rodgers.

6 Q Do I understand correctly that prior to a candidate being
7 potentially considered to become a nominee of the State
8 Republican Party, if the candidate is not an incumbent the
9 candidate will be required to fill out the questionnaire?

10 A Could you say that one more time or have the reporter repeat
11 it, whichever is easier?

12 Q So am I understanding that in order to be considered as a
13 potential nominee by the State Republican Party, if a
14 candidate is not an incumbent the candidate will be required
15 to fill out the questionnaire?

16 A They're actually two separate processes. Now, I think, my
17 sense is, the State Committee members want to have that
18 information, but the nomination policy doesn't require the
19 questionnaire in and of itself. So somebody could be
20 nominated without that. But separately there was this
21 process for the questionnaire I think which was brought
22 forward for informational purposes for the State Committee.

23 Q And so earlier we talked about candidates who were
24 authorized candidates of the Republican Party. So being an
25 authorized candidate of the Republican Party is different

1 than being the nominee of the Republican Party?

2 A Yes. And frequently before -- if we have a field of
3 candidates before a primary and we think more than one of
4 them are good Republican candidates, we'll authorize more
5 than one of them to receive Party resources. For example,
6 that's the case in our U.S. Senate race this year where
7 three candidates are authorized to receive party resources
8 -- Paul Akers, Clint Didier, and Dino Rossi -- and two
9 others who have a preference for Republican Party are not
10 receiving any Party resources whatsoever, though none of
11 those three authorized candidates are the nominee of the
12 Republican Party as of today.

13 Q With respect to those three authorized Republican
14 candidates, has the State Republican Party advertised on
15 behalf of any of those candidates during this primary
16 season?

17 A If -- if you go to our website where we list candidates,
18 those three are the only three candidates we list on our
19 website. We allow those three to speak at our state
20 convention which was broadcast on TBW. We held a rally in
21 Westlake Park last night where we invited all three of them,
22 and only -- of those three, two of them took us up on the
23 offer. And so we are doing what we can to promote those
24 three and give them an opportunity to make their case.

25 Q And when the Party, State Party, promotes those candidates,

1 how does the Party describe the status of those candidates
2 with respect to their relationship to the Republican Party?

3 A We describe them as "Republican candidates."

4 Q Do you describe them as "authorized Republican candidates"?

5 A We don't because, to my mind, that's kind of a term of art
6 internally that I don't think would add much to the
7 conversation for the average voter. I think they want to
8 know is somebody a good Republican, are they a Republican
9 candidate, and that's -- I think we do a good job of
10 communicating that.

11 Q Also, when you were answering question from the Grange
12 attorney you were talking about membership. And if I noted
13 this down correctly, you said "if more than four years a
14 person drops off."

15 A Uh-huh.

16 Q What does that mean, "drop off"?

17 A Well, that Exhibit 1, the document that describes membership
18 in the State Party, Part 3, "Individuals who have
19 contributed to the WSRP in the last four calendar years."

20 So as soon as it's been -- if your last contribution
21 was more than four years ago, then you're not considered to
22 be a member of the Party anymore.

23 Q What do they drop off of?

24 A They -- the list of people that we would -- or the group of
25 people, I should say, that we consider to be members of the

1 Party based at least on that category.

2 Now, somebody may have not given to us -- contributed
3 to us in four years, but may have -- if they took that
4 Republican Presidential Ballot in February of 2008, we would
5 still consider them to be a Republican based on that act.
6 But based just on the -- if the only reason they had
7 qualified for membership was having donated to the WSRP,
8 that disappears after four years.

9 Q Also earlier you had a conversation about -- you were asked
10 whether use of the term "GOP" was confusing. Do you recall
11 that?

12 A I do.

13 Q Okay. And do I recall correctly that you said it could be
14 confusing?

15 A I --

16 MR. WHITE: I will object to the form of the
17 question.

18 A I've seen some polling that indicates that it is confusing
19 to some people.

20 Q In your opinion, what are people confused about?

21 MR. WHITE: I will object to the form of the
22 question.

23 A The polling seemed to indicate they were confused, at least
24 some of the people who responded to the poll were confused
25 as to which party "GOP" meant. My recollection is that most

1 people got it right, but there was some segment of the
2 population that didn't automatically think "Republican" and
3 "GOP" were synonymous.

4 Q So do I understand you to say that the voters may be
5 confused whether "GOP" does or not does not mean
6 "Republican"?

7 MR. WHITE: I will object to the form of the
8 question.

9 A Well, the polling I've seen indicates there are some. I
10 didn't conduct the polling, but I certainly saw the results
11 of it in the media.

12 Q You recall I asked you some questions about how the primary
13 selected its nominee under previous -- excuse me, how the
14 Party selected its nominee under previous primary systems.

15 A (Witness nodding head.)

16 Q And I asked, "Could you tell me how the Party selected its
17 nominee under the Pick-a-Party system?" Do you recall that?

18 A I think so.

19 Q So I want to just revisit that because what I understood
20 when you were being questioned by your attorney earlier is
21 you said that was a little unclear.

22 So under the Montana or the Pick-a-Party system are you
23 familiar with how the State Republican Party selected its
24 official nominees?

25 MR. WHITE: I will object to the form of the

1 question.

2 A I don't -- I don't recollect how that process occurred then.

3 Q Do you -- to your knowledge, did the Party select nominees
4 prior to 2008 when the Top Two Primary was implemented?

5 MR. WHITE: I will object to the form of the
6 question.

7 A One thing I do distinctly remember when I ran for the State
8 Senate in 2006, which was a Montana Primary, there was a
9 vote taken at my 48th District Republican Legislative
10 Convention, and I forget the terminology they used, whether
11 it was "endorse" or "nominate," I don't remember, but they
12 did take a vote in support of me as the Party candidate.
13 That I do recall. But that's -- that's -- I don't recall
14 what the State process might have been.

15 Q Did --

16 So you don't recall what the State process might have
17 been.

18 A Right.

19 Q And that would be the State process for doing what?

20 A I don't recall what the State Party's process --

21 Q Okay.

22 A -- might have been --

23 Q Okay.

24 A -- was what I meant to say.

25 Q What was produced by the State of Washington's primary under

1 the Montana Primary? Did that select a nominee?

2 MR. WHITE: I will object to the form of the
3 question.

4 A I don't think it produced a nominee in every instance. I
5 haven't analyzed that myself perhaps as much as I should
6 have.

7 Q And so just so I'm clear, when -- under the Montana Primary
8 system --

9 A Right.

10 Q -- do you -- can -- to your knowledge, did the State Party
11 have a process to select nominees independent from the state
12 primary process that was run by the State election process?

13 A I'm not sure, though it is my understanding that the State
14 Party did have concerns about the Montana system and whether
15 candidates could file for office as Republican Party
16 candidates without some process for the Party having
17 approval or not.

18 Q And just for completeness, under the Blanket Primary prior
19 to the Pick-a-Party --

20 A Right.

21 Q First let's talk about the State Party's process.

22 A Uh-huh.

23 Q To your knowledge, did the State Party have a process for
24 picking nominees for partisan office, statewide partisan
25 office?

1 MR. WHITE: I will object to the form of the
2 question.

3 A I'm not sure.

4 Q And were Party nominees selected under the Blanket Primary
5 through the State-run primary process?

6 A Not always. There was many of the same problems we're
7 seeing with the current system.

8 MS. ZIPP: I have no more questions.

9 MR. AHEARNE: I have hopefully three short areas.

10

11 FURTHER EXAMINATION

12 BY MR. AHEARNE:

13 Q State's attorney just asked you several questions about the
14 questionnaire regarding whether a statewide or federal
15 nonincumbent agrees with the principles of the Republican
16 Party. Do you recall that generally?

17 A The principles of the platform.

18 Q The principles of the platform?

19 A State Party platform.

20 MR. AHEARNE: And John, have those questionnaires
21 been produced as part -- or the responses been produced as
22 part of the discovery in this case?

23 MR. WHITE: Not that I know of.

24 Q (By Mr. Ahearne) Does the Washington State Republican Party
25 do anything to review or monitor whether nonstatewide

1 elected officials agree with or adhere to the principles in
2 the State Party platform?

3 MR. WHITE: Excuse me. Would you read that back?

4 (At which time the record was read back.)

5 A The process we just described applies only to congressional
6 and statewide nonincumbents. For legislative and local
7 offices the Party rules send authority down to the local
8 county officials, and so we don't dictate to them on those
9 sorts of issues.

10 Q So if I understand you correctly, the State Republican Party
11 does not do anything to monitor or review whether the
12 nonstatewide elected officials or nonfederal officials agree
13 with or adhere to the principles in the Republican state
14 platform.

15 MR. WHITE: I will object to the form of the
16 question.

17 A We don't have any recommendation for a formal process.

18 Q Does the State Party have any informal process?

19 A I think the whole discussion this year about adopting the
20 formal process for the statewide and congressional offices
21 got a lot of people thinking about whether they should do
22 that or not at the county level. Whether they have done so
23 or not I'm not sure of.

24 Q So sitting here today do you, as Chairman of the State
25 Republican Party, know one way or the other whether the

1 county Republican Party organizations do anything to review
2 or monitor whether the elected officials in that county
3 agree with or adhere to the principles in the Republican
4 Party platform?

5 MR. WHITE: I will object to the form of the
6 question.

7 A I'm not sure if they do.

8 Q Does the Republican State Party do anything to review or
9 monitor whether statewide elected officials agree with or
10 adhere to the principles in the Republican Party State
11 platform other than this questionnaire you've talked about
12 which goes to nonincumbents?

13 A What I recollect of the debate over the adoption of that
14 rule was that the State Committee felt that they had enough
15 information with incumbents based on their voting records to
16 make decisions about them. So it's not the case that
17 they're not looking at them, but they just feel they can get
18 information elsewhere.

19 Q And when you say "make decisions about them," what's the
20 decision that would be made about them?

21 A To adopt rules, for example, that allow for the automatic
22 renomination of incumbents.

23 Q When the Republican State Party automatically renominates an
24 incumbent, does the State Party have any process where they
25 review the voting record or the statements of that incumbent

1 to see if they agree with or adhere to the principles in the
2 Republican Party State platform?

3 A Within the specific policy on nomination itself, no, though
4 there is that separate process we've just discussed with the
5 questionnaire, asking about their -- again, this is the
6 nonincumbent candidates -- whether they approve of the
7 principles in the primary.

8 Q So as we sit here today does the Republican State Party have
9 a process where they review or monitor whether incumbent
10 elected officials agree with or adhere to the Republican
11 State Party platform?

12 MR. WHITE: I will object to the form of the
13 question.

14 A There's no formal process, though I think my State Committee
15 members are pretty politically astute and follow these sorts
16 of issues, but there is no formal process related to that.

17 Q And other than State Committee members being astute, is
18 there any informal process?

19 MR. WHITE: I will object to the form of the
20 question.

21 A Well, I guess that's what I would think of as an informal
22 process myself, would be the good judgment of my committee
23 members.

24 Q And what kind of decision or action would these committee
25 members take based on their good judgment?

1 A Well, they're the ones who adopted, by their vote, these
2 nomination rules (indicating). They could change them or
3 modify them in the future should they consider that
4 warranted.

5 Q And just so the record is clear, when you say "these
6 nomination rules," you're referring to Exhibit 2?

7 A Exhibit 2, yes, which is very, very similar to the rules
8 from 2008.

9 Q All right. The last area in response to the State's
10 questions you referred to some poll suggesting some people
11 don't understand that "GOP" means "Republican" or something
12 like that, right?

13 A Yes.

14 Q Does the Washington State Republican Party have any policy
15 on whether its nominees should use the phrase "GOP" or the
16 phrase "Republican"?

17 A We do not.

18 Q As Chairman of the State Republican Party do you have any
19 preference on whether the State Party's nominees should use
20 the phrase "GOP" or "Republican"?

21 A I do not. I would leave it to the candidate to make that
22 decision.

23 MR. AHEARNE: Okay. I have nothing further.

24 MS. ZIPP: No further questions.

25 MR. WHITE: Orrin?

1 MR. GROVER: No questions.

2 MR. WHITE: I have no questions.

3 (Signature reserved.)

4 (Deposition concluded at 2:20 p.m.)

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1 C E R T I F I C A T E

2 STATE OF WASHINGTON)

) ss.

3 COUNTY OF PIERCE)

4 I, Rebecca L. Mayse, a Notary Public in and for the State
5 of Washington, do hereby certify:

6 That the foregoing deposition was taken before me at the
7 time and place therein set forth;

8 That the witness was by me first duly sworn to testify to
9 the truth, the whole truth, and nothing but the truth; and that
10 the testimony of the witness and all objections made at the time
11 of the examination were recorded stenographically by me and
12 thereafter transcribed under my direction;

13 That the foregoing transcript is a true record of the
14 testimony given by the witness and of all objections made at the
15 time of the examination, to the best of my ability.

16 I further certify that I am in no way related to any party
17 to this matter nor to any counsel, nor do I have any
18 interest in the matter.

19 Witness my hand and seal this _____ day of _____
20 2010.

21

22 _____
REBECCA L. MAYSE, RPR, CRR, CLR

CCR License #2764

23 Notary Public in and for the State of
Washington, residing at Puyallup.

24

25