

The Honorable John C. Coughenour

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WASHINGTON STATE REPUBLICAN  
PARTY, et al.,

Plaintiffs,

No. CV05-0927-JCC

WASHINGTON DEMOCRATIC CENTRAL  
COMMITTEE, et al.,

Plaintiff Intervenors

LIBERTARIAN PARTY OF WASHINGTON  
STATE, et al.,

Plaintiff Intervenors

v.

STATE OF WASHINGTON, et al.,

Defendant Intervenors

WASHINGTON STATE GRANGE,  
Defendant Intervenor.

WASHINGTON STATE GRANGE'S  
RESPONSE TO  
WASHINGTON DEMOCRATIC  
CENTRAL COMMITTEE PLAINTIFFS'  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT REGARDING  
"PCO" ELECTIONS

*[Previously noted by moving party for  
Motions Calendar on  
Friday, September 17, 2010]*

The Washington Democratic Central Committee and its leaders intervened as plaintiffs in this suit to strike down Initiative 872 as unconstitutional.

Like their State Republican Party plaintiff colleagues, they have now changed topics with a partial summary judgment motion demanding that this federal Court craft an “injunction” to change what the State Democratic Central Committee plaintiffs don’t like about certain State statutes relating to the election of Precinct Committee Officers (“PCOs”). [Dkt. No. 247.]

Their demand must be denied for the straightforward reason previously explained in the Grange’s pending summary judgment motion. That reason can be summarized as follows:

Initiative 872 established a two stage election system for certain elected offices in this State – for example: Governor, State legislator, and County Commissioner. Initiative 872, section 7 (establishing a 2-stage, top two election system for “partisan offices”) and section 4 (identifying those “partisan offices”), codified at Rev. Code. Wash. RCW 29A.52.112 and 29A.04.110.

*Grange’s August 26, 2010 Summary Judgment Motion [Dkt. No. 249] at page 1.*

But the top two system enacted by Initiative 872 does not apply to the election of Precinct Committee Officers. The Initiative’s top two election system applies to three (and only three) categories of public office:

- (1) United States senator and United States representative;
- (2) All state offices, including legislative, except (a) judicial offices and (b) the office of the superintendent of public instruction;
- (3) All county offices except (a) judicial offices and (b) those offices for which a county home rule charter provides otherwise.

Initiative 872, section 4 (codified at Rev. Code Wash. RCW 29A.04.110).

The election of Precinct Committee Officers is not one of those offices.

*Grange’s August 26, 2010 Summary Judgment Motion [Dkt. No. 249] at page 6.*

[P]laintiffs claim the Washington statute allowing local Republican and Democratic party organizations to elect their Precinct Committee Officers (“PCOs”) in taxpayer-funded elections is unconstitutional. If the Precinct Committee Officer election laws are unconstitutional, plaintiffs can sue to strike them down. But Precinct Committee Officers are not included in the list of “partisan offices” to which the top two system enacted by Initiative 872 applies. The (alleged) unconstitutionality of Washington’s PCO election laws does not make Initiative 872 unconstitutional instead.

*Grange’s August 26, 2010 Summary Judgment Motion [Dkt. No. 249] at page 2.*

In short, if the State Democratic Central Committee plaintiffs want to file a suit challenging the Washington laws allowing local Democratic party organizations to elect their Precinct Committee Officers (“PCOs”) in taxpayer-funded elections, they should do so.

But their suit to invalidate Initiative 872 is not that suit.

For the reasons previously explained in the Grange’s pending summary judgment motion [*Dkt. No. 249*], the State Democratic Central Committee plaintiffs’ motion concerning Washington’s PCO election laws must accordingly be denied.<sup>1</sup>

RESPECTFULLY SUBMITTED this 13<sup>th</sup> day of September, 2010.

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Washington State Grange

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<sup>1</sup> *The State Democratic Central Committee plaintiffs’ motion should also be denied for the additional reasons explained in the State’s Response to that motion [Dkt. No. 255]. The Grange joins in those reasons explained by its co-defendant, but for the sake of efficiency, the Grange does not redundantly repeat those reasons for this Court to simply read a second time in the Grange’s filing as well.*

### CERTIFICATE OF SERVICE

Thomas F. Ahearne states: I hereby certify that on September 13, 2010, I electronically filed the following documents with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the parties listed below:

1. WASHINGTON STATE GRANGE'S RESPONSE TO WASHINGTON DEMOCRATIC CENTRAL COMMITTEE PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING "PCO" ELECTIONS.

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

Executed at Seattle, Washington this 13<sup>th</sup> day of September, 2010.

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