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The Honorable John C. Coughenour

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

WASHINGTON STATE REPUBLICAN
PARTY, et al.,

Plaintiffs,

WASHINGTON DEMOCRATIC
CENTRAL COMMITTEE, PAUL
BERENDT,

Plaintiff Intervenors

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

Plaintiff Intervenors

v.

STATE OF WASHINGTON, et al.,

Defendants,

WASHINGTON STATE GRANGE, et
al.

Defendant Intervenors

Case No: CV05-0927-JCC

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

Noted for February 19, 2010

No oral argument requested

Pursuant to CR 15[a] and [d] the Libertarian Party of
Washington State requests leave of the court to amend and supplant

LIBERTARIAN PARTY'S MOTION TO
AMEND COMPLAINT - Page 1 of 5

ORRIN L. GROVER, ESQ.
Orrin L. Grover, P.C.
416 Young Street
Woodburn, OR 97071
(503) 981-5836

1 to amend and supplement its complaint in intervention. The
2 Libertarian Party moves to file the proposed amended and
3 supplemental pleading¹ to:

4 (1) Delete and add parties to reflect dismissals,
5 withdrawals, substitutions and interventions that have occurred since
6 the original Complaint in Intervention was filed;

7 (2) Supplement and update the factual allegations with
8 respect to the proposed implementation of I-872 that led to this
9 litigation in order to conform to evidence received and considered by
10 the Court after the date of the original pleading;

11 (3) Supplement the factual allegations to set forth material
12 transactions, events and occurrences that have happened after the
13 date of the original Complaint in Intervention to reflect the State's
14 abandonment of its original implementation of I-872 and its new
15 implementation of I-872 adopted in 2008;

16 _____
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19 ¹ On August 20, 2009, the court ruled on pending motions
20 to dismiss, including motion to amend by the Democratic and
21 Republican Parties to assert a prospective claim challenging the
22 constitutionality of I-872 in light of the State's position taken in this
23 proceeding after the date of the original Complaint in Intervention,
24 and in its proposed implementation of I-872, that I-872 impliedly
25 repealed or amended various election laws that were not included in
the text of the initiative as required by Article II, § 37 of Washington's
constitution. The court denied the the Democratic and Republican
Parties' motions to amend. But for that ruling, the Libertarian Party
would also seek to amend to assert the same claim.

1 (4) Supplement the Libertarian Party’s cause of action for
2 forced association to enumerate further the associations forced upon
3 the Party by the State’s implementation of I-872;

4 (5) Supplement the Libertarian Party’s cause of action for
5 injunctive relief to include as a basis selective enforcement of election
6 laws by State officials.
7

8 A copy of the First Amended Complaint in intervention, as
9 well as a “mark-up version” are attached as Attachments 1 and 2 to
10 this motion.

11 **BACKGROUND**

12 In its August 20, 2009 order addressing pending issues
13 before the court, this court allowed the motions to amend by the
14 Democrats and the Republican Parties to allege as-applied challenges
15 and for other cleanup matters. This amendment is sought ot place the
16 Libertarian Party on the same footing.
17

18 It is not clear from the order of this court on August 20,
19 2009 whether the leave extended to the Republican and Democratic
20 Parties to file amended complaints extends to the Libertarian Party as
21 well absent a formal motion.
22

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CONCLUSION

The granting of leave to amend does not alter the progress of the case or prejudice the defendants. The motion for leave should be granted.

DATED: January 22, 2010 at Woodburn, Oregon.

ORRIN L. GROVER, P.C.
/s/ Orrin L. Grover
ORRIN L. GROVER, OSB NO. 78010

Attorney for Plaintiff Intervenors
Appearing Pro Haec Vice
LIBERTARIAN LP OF WASHINGTON
STATE, RUTH BENNETT, and J. S. MILLS
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VERIFICATION OF COMPLAINT

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

Dated this _ day of January __, 2010, at Seattle, Washington.

RUTH BENNETT, Plaintiff

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

Dated this _ day of January 22, 2010, at Tacoma, Washington.

J. S. MILLS, Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2010, I electronically filed the foregoing Plaintiffs' Motion to File the First Amended Complaint for the Plaintiff Libertarian Party, with the clerk of the Court using the CM/ECF system which will send notification of such filing electronically to the following:

- David T. McDonald and Jay Carlson, attorneys for the Democratic Central Committee;
- John J. While, Jr., attorneys for the Washington Republican Party;
- Rob McKenna, Attorney General;
- Maureen A. Hart, Solicitor General;
- James K. Pharris, Sr. Assistant Attorney General; and
- Jeffrey T. Even, Assistant Attorney General;
- Thomas F. Ahearne, Attorney for Defendant-Intervenor Washington State Grange;

DATED this 22nd day of January, 2010.

/s/ Orrin L. Grover
Orrin L. Grover
In Pro Haec Vice