

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

WASHINGTON STATE  
REPUBLICAN PARTY, et al.,  
  
Appellants,

v.

WASHINGTON STATE, et al.,  
  
Appellees.

Nos. 11-35122, 11-35124,  
11-35125

WASHINGTON STATE  
REPUBLICAN PARTY'S  
RESPONSE TO  
WASHINGTON STATE'S  
AND WASHINGTON STATE  
GRANGE'S JOINT MOTION  
TO CONSOLIDATE CASES  
AND FOR AN EXTENSION  
AND ENLARGEMENT  
UNDER CIRCUIT RULE 28-4

The Washington State Republican Party (the "WSRP") responds to Washington State's (the "State") and Washington State Grange's (the "Grange") Joint Motion to Consolidate Cases and for an Extension and Enlargement under Circuit Rule 28-4 (the "Motion") as follows:

1. The Court presently has the WSRP's request to expedite its appeal under submission. (Dkt. No. 19) Provided consolidation does not delay progress of the WSRP's appeal, the WSRP does not object to the consolidation of Case Nos. 11-35122, 11-35124, and 11-35125 for joint consideration by the Court, nor the filing of a single response brief by each Appellee to the Appellants' opening briefs nor a 1400-word enlargement.

2. The WSRP objects to extending the due date of the Appellees' response briefs beyond that which they would have received in this appeal, inclusive of a Circuit Rule 31-2.2(a) 14-day extension - July 20, 2011.

3. The WSRP also objects to the extent the requested 21-day extension jeopardizes the WSRP's motion for priority hearing under Circuit Rule 34-3. The timing of this case is critical to prevent First Amendment violations (both compelled association and compelled content of political speech) caused by the State's implementation of Initiative 872 for another election cycle. A priority hearing date remains necessary to complete the appellate process before candidate ballot designations are finalized in Spring 2012.

4. Candidates have already launched campaigns as "Republicans" for partisan offices to be elected at the November 2012 general election.

Attached as **Exhibit 1** are true and correct copies of Washington State Public Disclosure Commission's "Republican" candidate registrations for the 2012 Governor's race, retrieved on June 30, 2011. A sample of recent media coverage of the campaign for the 2012 gubernatorial campaign is attached as **Exhibit 2**.

The WSRP respectfully requests that if the Court consolidates Case Nos. 11-35122, 11-35124, and 11-35125, the Court set a firm deadline for the filing of the State's and Grange's briefs on July 20, 2011. If the Court grants the request to extend their briefing deadline beyond July 20, 2011, the WSRP respectfully requests that the extension not delay the hearing date which would occur under its pending priority hearing request.

DATED this 30th day of June, 2011.

LIVENGOOD, FITZGERALD  
& ALSKOG, PLLC

By: s/John J. White, Jr.  
John J. White, Jr., WSBA #13682  
Kevin B. Hansen, WSBA #28349  
Attorneys for Appellant  
Washington State Republican Party

9th Circuit Case Number(s)

**NOTE:** To secure your input, you should print the filled-in form to PDF (File > Print > *PDF Printer/Creator*).

\*\*\*\*\*

### CERTIFICATE OF SERVICE

#### When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date)

June 30, 2011

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature (use "s/" format)

s/John J. White, Jr.

\*\*\*\*\*

### CERTIFICATE OF SERVICE

#### When Not All Case Participants are Registered for the Appellate CM/ECF System


I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date)


Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.


I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

Signature (use "s/" format)

# **EXHIBIT 1**

<b>PUBLIC DISCLOSURE COMMISSION</b>  711 CAPITOL WAY RM 215 PO BOX 40108 OLYMPIA WA 98544-9903 (360) 703-1111 Toll Free 1-877-601-2628		<b>Candidate Registration</b>		<b>C1</b> (1/2008)	100413078  06-09-2011
Candidate's Name (Give candidate's full name.)				Telephone Number	
ROBERT M MCKENNA				425-449-8244	
Candidate's Committee Name (Do not abbreviate.)				Fax Number	
FRIENDS OF ROB MCKENNA					
Mailing Address				Candidate's E-Mail Address	
PO BOX 52866				ROB@ROBMCKENNA.ORG	
City		County	Zip + 4	Campaign E-Mail Address	
BELLEVUE		KING	98015	norm8happvhusky.com	
1. What office are you running for?		Legislative District, County or City		Position No. Do you now hold this office?	
GOVERNOR		GOVERNOR, OFFICE OF		NA Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
2. Political party (if partisan office)		3. Date of general or special election			
REPUBLICAN		11-06-2012			
4. How much do you plan to spend during your entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. If no box is checked you are obligated to use Option II, Full Reporting. See instruction manuals for information about reports required and changing reporting options.					
<input type="checkbox"/> <b>Option I MINI REPORTING:</b> In addition to my filing fee of \$_____, I will raise and spend no more than \$5,000, including any charges for inclusion in state and local voter pamphlets. I will not accept more than \$500 in the aggregate from any contributor except myself.					
<input checked="" type="checkbox"/> <b>Option II FULL REPORTING:</b> I will use the Full Reporting system. I will file the frequent, detailed campaign reports required by law.					
5. Treasurer's Name and Address. Does treasurer perform only ministerial functions? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> . See WAC 390-05-243 and next page for details. List deputy treasurers on attached sheet.				Daytime Telephone Number	
NORMAN S HINE 611 MARKET ST # 3, KIRKLAND WA 98033				425-889-2400	
6. Persons who perform only ministerial functions on your behalf and on behalf of other candidates or political committees. List name, title and address of these persons. See WAC 390-05-243 and next page for details. <input type="checkbox"/> Continued on attached sheet.					
7. Committee Officers and other persons who authorize expenditures or make decisions on your behalf. List name, title and address. See next page for definition of "officer." <input type="checkbox"/> Continued on attached sheet.					
TOM PERRY, FINANCE ADMINISTRATOR, PO BOX 52866, BELLEVUE WA 98015					
8. Campaign Bank or Depository		Branch		City	
BANK OF AMERICA		KIRKLAND		KIRKLAND	
9. Related or Affiliated Political Committees. List name, address and relationship. <input type="checkbox"/> Continued on attached sheet.					
10. Campaign books must be open to the public by appointment between 8 a.m. and 8 p.m. during the eight days before the election, except Saturdays, Sundays, and legal holidays. In the space below, provide contact information for scheduling an appointment and the address where the inspection will take place. It is not acceptable to provide a post office box or an out-of-area address.					
Street Address, Room Number, City where campaign books will be available for inspection 11811 NE 1ST ST STE 201, BELLEVUE In order to make an appointment, contact the campaign at (telephone, fax, e-mail): 425-449-8244 TOM@ROBMCKENNA.ORG					
11. CERTIFICATION: I certify that this report is true, complete and correct to the best of my knowledge.					
Candidate's Signature ROBERT M MCKENNA				Date 06-09-2011	

<b>PUBLIC DISCLOSURE COMMISSION</b>  711 CAPITOL WAY RM 205 PO BOX 40108 OLYMPIA WA 98544-0808 (360) 753-1111 Toll Free 1-877-601-2528		<b>Candidate Registration</b>		<b>C1</b> (1/2008)		100411627  05-31-2011	
Candidate's Name (Give candidate's full name.)						Telephone Number	
JOHN W AIKEN JR						509-299-3716	
Candidate's Committee Name (Do not abbreviate.)						Fax Number	
JOHN W. AIKEN, JR., CAMPAIGN COMMITTEE							
Mailing Address						Candidate's E-Mail Address	
PO BOX 250						JWAIKEN1@MSN.COM	
City		County		Zip + 4		Campaign E-Mail Address	
MEDICAL LAKE		SPOKANE		99022-0250		Jwaiken1@msn.com	
1. What office are you running for?				Legislative District, County or City		Position No.	
GOVERNOR				GOVERNOR, OFFICE OF		NA	
2. Political party (if partisan office)				3. Date of general or special election			
REPUBLICAN				11-06-2012			
4. How much do you plan to spend during your entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. If no box is checked you are obligated to use Option II, Full Reporting. See instruction manuals for information about reports required and changing reporting options.							
<input type="checkbox"/> <b>Option I MINI REPORTING:</b> In addition to my filing fee of \$_____, I will raise and spend no more than \$5,000, including any charges for inclusion in state and local voters pamphlets. I will not accept more than \$500 in the aggregate from any contributor except myself.							
<input checked="" type="checkbox"/> <b>Option II FULL REPORTING:</b> I will use the Full Reporting system. I will file the frequent, detailed campaign reports required by law.							
5. Treasurer's Name and Address. Does treasurer perform only ministerial functions? Yes ___ No <input checked="" type="checkbox"/> See WAC 390-05-243 and next page for details. List deputy treasurers on attached sheet.						Daytime Telephone Number	
JOHN W AIKEN JR						509-299-3716	
PO BOX 250, MEDICAL LAKE WA 99022-0250							
6. Persons who perform only ministerial functions on your behalf and on behalf of other candidates or political committees. List name, title and address of these persons. See WAC 390-05-243 and next page for details.							
7. Committee Officers and other persons who authorize expenditures or make decisions on your behalf. List name, title and address. See next page for definition of "officer."							
8. Campaign Bank or Depository				Branch		City	
US BANK				INDIANA		SPOKANE	
9. Related or Affiliated Political Committees. List name, address and relationship.							
10. Campaign books must be open to the public by appointment between 8 a.m. and 8 p.m. during the eight days before the election, except Saturdays, Sundays, and legal holidays. In the space below, provide contact information for scheduling an appointment and the address where the inspection will take place. It is not acceptable to provide a post office box or an out-of-area address.							
Street Address, Room Number, City where campaign books will be available for inspection N312C LEFEVRE STREET, MEDICAL LAKE In order to make an appointment, contact the campaign at (telephone, fax, e-mail): 509 299 3716 JWAIKEN1@MSN.COM							
11. <b>CERTIFICATION:</b>							
I certify that this report is true, complete and correct to the best of my knowledge.							
Candidate's Signature						Date	
JOHN W AIKEN JR						05-31-2011	

<b>PUBLIC DISCLOSURE COMMISSION</b>  711 CAPITOL WAY RM 204 PO BOX 40000 OLYMPIA WA 98544-0000 (360) 783-1111 Toll Free 1-877-661-2020		<b>Candidate Registration</b>	<b>C1</b> (1/2008)	<b>RECEIVED</b> MAY 28 2009 Public Disclosure Commission
Candidate's Name (Give candidate's full name.) <b>JAVIER O LOPEZ</b>			Telephone Number <b>(360) 278-3420</b>	
Candidate's Committee Name (Do not abbreviate.) <b>People For JAVIER O LOPEZ</b>			Fax Number <b>(360) 278-3420</b>	
Mailing Address <b>P.O. Box 5068</b>			Candidate's E-Mail Address	
City <b>Lacey WA.</b>		County <b>98503-48509</b>	Campaign E-Mail Address	
1. What office are you running for? <b>GOVERNOR</b>		Legislative District, County or City		Position No.
2. Political party (if partisan office) <b>Republican</b>		3. Date of general or special election <b>11-6-12</b>		
4. How much do you plan to spend during your entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. If no box is checked you are obligated to use Option II, Full Reporting. See instruction manuals for information about reports required and changing reporting options.				
<input checked="" type="checkbox"/> <b>Option I MINI REPORTING:</b> In addition to my filing fee of \$_____, I will raise and spend no more than \$5,000, including any charges for inclusion in state and local voters pamphlets. I will not accept more than \$500 in the aggregate from any contributor except myself.				
<input type="checkbox"/> <b>Option II FULL REPORTING:</b> I will use the Full Reporting system. I will file the frequent, detailed campaign reports required by law.				
5. Treasurer's Name and Address. Does treasurer perform <u>only</u> ministerial functions? Yes <input type="checkbox"/> No <input type="checkbox"/> See WAC 390-05-243 and next page for details. List deputy treasurers on attached sheet.			Daytime Telephone Number	
<b>AURORA LOPEZ, Lacey WA,</b>			<b>(360) 888-8203</b>	
6. Persons who perform only ministerial functions on your behalf <u>and</u> on behalf of other candidates or political committees. List name, title and address of those persons. See WAC 390-05-243 and next page for details.				
7. Committee Officers and other persons who authorize expenditures or make decisions on your behalf. List name, title and address. See next page for definition of "officer."				
8. Campaign Bank or Depository				
<b>None</b>		Branch		City
9. Related or Affiliated Political Committees. List name, address and relationship.				
10. Campaign books must be open to the public by appointment between 9 a.m. and 4 p.m. during the eight days before the election, except Saturdays, Sundays, and legal holidays. In the space below, provide contact information for scheduling an appointment and the address where the inspection will take place. It is not acceptable to provide a post office box or an out-of-area address.				
Street Address, Room Number, City where campaign books will be available for inspection				
In order to make an appointment, contact the campaign at (telephone, fax, e-mail): ( )				
11. <b>CERTIFICATION:</b> I certify that this report is true, complete and correct to the best of my knowledge.				
Candidate's Signature <b>Javier Lopez</b>			Date <b>5-22-09</b>	

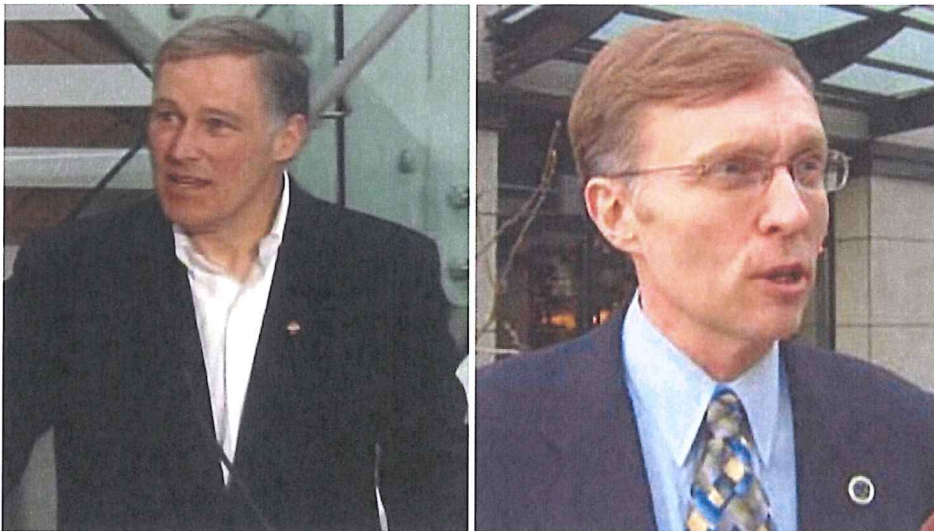
SEE INSTRUCTIONS ON NEXT PAGE



**EXHIBIT 2**



## Poll gives Inslee slight lead over McKenna



by KING 5 News

Posted on June 27, 2011 at 10:54 AM

Updated yesterday at 5:10 PM

[Recommend](#)

SEATTLE -- Democrat Jay Inslee has a slight advantage over Republican Rob McKenna in the 2012 Washington state Governor's race, according to a poll conducted by SurveyUSA.

The poll is the first look at the race following incumbent Washington Gov. Christine Gregoire's announcement that she will not seek a third term.

Inslee and McKenna both have Plus 15 favorability ratings: Inslee is 31 percent Favorable, 16 percent Unfavorable. McKenna is 36 percent Favorable, 21 percent Unfavorable.

When the two go head-to-head among registered voters, it's Inslee 47 percent, McKenna 44 percent.

Conservatives break 8:1 Republican and Liberals break 10:1 Democrat. Inslee's slight overall advantage comes from moderates, where he leads by 19 points.

Some 600 Washington state residents were interviewed for the poll. Of the 600, 515 were registered voters.

Inslee, who has represented Washington's First Congressional District since 1999, officially launched his campaign Monday morning at a biotech firm in downtown Seattle.

Attorney General Rob McKenna declared his candidacy for the Republican nomination earlier this month.

**Add another comment**