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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 WASHINGTON STATE REPUBLICAN
11 PARTY; CHRISTOPHER VANCE;
12 BERTABELLE HUBKA; STEVE
13 NEIGHBORS; BRENT BOGER; MARCY
14 COLLINS; and MICHAEL YOUNG,

15 Plaintiffs,

16 and

17 WASHINGTON STATE DEMOCRATIC
18 CENTRAL COMMITTEE; and PAUL
19 BERENDT,

20 Plaintiffs in Intervention,

21 v.

22 DEAN LOGAN, King County Records &
23 Elections Division Manager; BOB
24 TERWILLIGER, Snohomish County
25 Auditor; VICKY DALTON, Spokane County
26 Auditor; GREG KIMSEY, Clark County
Auditor; CHRISTINA SWANSON, Cowlitz
County Auditor; VERN SPATZ, Grays
Harbor County Auditor; PAT GARDNER,
Pacific County Auditor; DIANE L.
TISCHER, Wahkiakum County Auditor; and
DONNA M. ELDRIDGE, Jefferson County
Auditor,

Defendants.

No.

WASHINGTON STATE
DEMOCRATIC CENTRAL
COMMITTEE'S MOTION TO
INTERVENE AS PLAINTIFF

**Noted for Consideration:
June 3, 2005**

1 Pursuant to Fed.R.Civ.P. 24(a) and (b), the Washington State Democratic Central
2 Committee (the “Party”) and its Chair, Paul Berendt, move to intervene in the above-entitled
3 action.

4 This lawsuit seeks a declaration that Washington’s “top two” primary statute
5 unconstitutionally impairs the First Amendment associational rights of political parties to
6 decide for themselves who may represent them in partisan elections. As a practical matter,
7 this suit will determine the scope of the Washington Democratic Central Committee’s
8 associational rights to select its own candidates for public office. Therefore, the Party has a
9 fundamental interest in the outcome of this case and is entitled to intervene as of right.

10 Fed.R.Civ.P. 24(a) (Intervention of Right allowed when the movant “claims an interest
11 relating to the ... subject of the action” and the “disposition of the action may as a practical
12 matter impair or impede his ability to protect that interest[.]”); *see also Idaho Farm Bureau
13 Fed’n v. Babbitt*, 58 F.3d 1392, 1397 (9th Cir. 1995) (Rule 24(a) construed broadly and in
14 favor of applicants); *Greene v. United States*, 996 F.2d 973, 976 (9th Cir. 1993) (whether
15 movant has an adequate interest in the action is a “practical, threshold inquiry.”). As the
16 Advisory Committee Notes to Fed.R.Civ.P. 24(a) make clear: “If an absentee would be
17 substantially affected in a practical sense by the determination made in an action, he should,
18 as a general rule, be entitled to intervene.”

19 Alternatively, the Washington State Democratic Central Committee is similarly
20 situated with plaintiff the Washington State Republican Party. The Party therefore has claims
21 against the defendants that share common questions of law and fact. The Court should allow
22 permissive intervention pursuant to Fed.R.Civ.P. 24(b) (Permissive Intervention allowed
23 when the movant’s “claim or defense and the main action have a question of law or fact in
24 common.”).

25 Counsel for the Plaintiff in Intervention has conferred with Plaintiff, the Washington
26 State Republican Party, through its counsel. The Plaintiff has indicated that they will have no

1 opposition to the Motion to Intervene. We respectfully request that the Court allow the
2 Washington State Democratic Central Committee and its Chair, Paul Berendt, to Intervene
3 and represent their interests in this matter.

4 We have attached herewith a Complaint in Intervention as Exhibit A. We request that
5 the Complaint in Intervention be accepted for filing and service on the other parties to this
6 action. This Complaint substantially mirrors the Complaint already on file.

7 DATED this 19th day of May, 2005.

8 PRESTON GATES & ELLIS LLP

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10 By _____
11 David T. McDonald, WSBA #5260
12 Jay Carlson, WSBA # 30411
13 Attorneys for Plaintiffs in Intervention,
14 Washington State Democratic Party and
15 Paul R. Berendt, Chair
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