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RICHARD SHEPARD
Shepard Law Office, Inc.
818 S. Yakima Ave., #200
Tacoma, WA 98405
Tel: (253) 383-2235
Fax: (253) 627-1990

Attorneys for Appellee/Plaintiff Intervenors
Libertarian Party of Washington State, et al.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

WASHINGTON STATE
REPUBLICAN PARTY, et al.,

Appellee/Plaintiffs,

WASHINGTON STATE
DEMOCRATIC CENTRAL
COMMITTEE, et al.,

Appellee/Plaintiff Intervenors,

LIBERTARIAN PARTY OF
WASHINGTON STATE, et al.,

Appellee/Plaintiff Intervenors,

v.

DEAN LOGAN, King County
Records & Elections Division
Manager, et al.,

Defendants,

STATE OF WASHINGTON, et al.,

Defendant Intervenors,

WASHINGTON STATE GRANGE,

Appellant/Defendant Intervenor.

No. 05-35774

(Dist. Ct. No. CV05-0927Z)

APPELLEE LIBERTARIAN
PARTY OF WASHINGTON
STATE'S JOINDER AND
OPPOSITION TO MOTION
TO EXPEDITE REVIEW

PURSUANT TO CIRCUIT
RULES 27-12 & 34-3(3)

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The Libertarian Party of Washington State joins the Washington State Democratic Central Committee in opposition to expedited review.

The Libertarian Party agrees with the Democratic Party that the Washington State Grange is not entitled to preferential treatment in this matter. As the Democratic Party points out, the trial court's invalidation of the "top two" primary was a surprise to no one except those with false hopes. The Washington State legislature even provided an alternative nominating system if the "top two" system was found to be unconstitutional. The Grange should not get preferential treatment merely because it wants a timely opportunity to lobby the legislature.

In addition, the Libertarian Party strongly disagrees with the Grange's assertion that voters who supported I-872 expressly rejected the "Montana" alternative adopted by the legislature in ESB 6453. Casual review of the Grange's statements in the relevant voter's pamphlet reveals the overwhelming objective was to reinstitute a "modified blanket primary" and an inelegant attempt to circumvent the decision of this court in *Washington Democratic Party v. Reed*, 343 F.3d 1198 (2004). Thus, the Libertarians assert the more likely motivation of the voters in supporting I-872 had little to do with their opinion of the "Montana" system, but instead was a desire to return to a primary system that had existed in the state for 68 years, but had twice been held unconstitutional.

Finally, the Libertarian Party wishes to emphasize that it had reasons unique to its much smaller size for challenging the "top two" system, some of which were rendered moot by the trial court's decision, e.g., rights to access the general election ballot (regardless whether they had access to the primary ballot) for minor party and independent candidates. Thus, a reversal by this court would not mean I-872 is without further constitutional challenge.

DATED Wednesday, August 10, 2005, at Tacoma, Washington.

SHEPARD LAW OFFICE, INC.,

A handwritten signature in black ink, appearing to read 'Richard Shepard', written over a horizontal line.

RICHARD SHEPARD, WSBA # 16194
Attorney for LIBERTARIAN PARTY OF
WASHINGTON STATE, RUTH BENNETT, and
J. S. MILLS