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The Honorable THOMAS S. ZILLY

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

WASHINGTON STATE REPUBLICAN
PARTY, CHRISTOPHER VANCE,
BERTABELLE HUBKA, STEVE
NEIGHBORS, BRENT BOGER,
MARCY COLLINS, MICHAEL
YOUNG,

Plaintiffs,

v.

DEAN LOGAN, King County Records &
Elections Division Manager; BOB
TERWILLIGER, Snohomish County
Auditor; VICKY DALTON, Spokane
County 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. 05-0927 Z

STATE INTERVENORS'
ANSWER TO COMPLAINT IN
INTERVENTION OF
LIBERTARIAN PARTY

1 As and for an Answer to the Complaint in Intervention filed in this matter by the
2 Libertarian Party of Washington State (LP), the State Intervenors admit, deny, and allege as
3 follows:

4 **PARTIES**

5 1. In Response to Paragraph 1 of the Complaint, the State has no specific
6 knowledge as to the history of the Libertarian Party or the purposes for which it was organized,
7 but has no specific basis to contest the accuracy of these allegations.

8 2.-3. Responding to Paragraphs 2 and 3 of the Complaint, the State has no knowledge
9 as to the truth of the allegations contained therein, but has no basis to contest the accuracy of
10 these allegations.

11 4. Responding to Paragraph 4 of the Complaint, the State admits this paragraph
12 accurately names a number of county officers, who have duties as prescribed in state law. The
13 State further admits that each of the officers in questions resides in the Western District of
14 Washington, except Vicky Dalton, who resides in the Eastern District of Washington.

15 **JURISDICTION AND VENUE**

16 5. In response to Paragraph 5 of the Complaint, the State admits that this case
17 presents a federal question and that this Court has jurisdiction.

18 6. In response to Paragraph 6 of the Complaint, the State admits that the Western
19 District of Washington is a proper venue for this action.

20 **FACTUAL ALLEGATIONS**

21 7. Paragraph 7 consists of legal argument concerning the asserted constitutional
22 rights of political parties. The State denies that Paragraph 7 is an accurate summary of the
23 state of the law.

24 8. In response to Paragraph 8, the State admits that Initiative 872 (I-872) was
25 enacted, and that the text of the initiative is a matter of official record. The State denies the
26 remaining allegations in Paragraph 8.

1 9. In response to Paragraph 9 of the Complaint, the provisions of I-872 are matters
2 of official record and need not be the subject of factual pleadings. The State admits that I-872
3 establishes a system in which qualification for the general election ballot is not based on the
4 political party affiliation or preference of the candidates. The remaining allegations in
5 Paragraph 9 are denied.

6 10. Responding to Paragraph 10, the State admits that Paragraph 10 includes a short
7 quote from the voters' pamphlet, taken out of context, but denies that the quote is material to
8 this controversy. The remaining allegations in Paragraph 10 are denied.

9 11. Paragraph 11 consists of legal argument. The State denies that Paragraph 10 is
10 an accurate statement of the law.

11 12. Paragraph 12 consists of legal argument. The State denies that Paragraph 12 is
12 an accurate statement of the law.

13 13. Paragraph 13 consists of legal argument. The State denies that Paragraph 13 is
14 an accurate statement of the law.

15 14. Paragraph 14 consists of legal argument. The State denies that Paragraph 14 is
16 an accurate state of the law.

17 15. In response to Paragraph 15, the State admits that the LP nominated candidates
18 for office by convention in some historical periods. The State admits that the Secretary of
19 State has adopted rules implementing I-872 and that the contents of the rules are matters of
20 official record. The State denies the remaining allegations in Paragraph 15.

21 16. In response to Paragraph 16, the State admits that I-872 contains language
22 repealing certain earlier statutes. The State further asserts that any previous statutes, expressly
23 repealed or not, that are inconsistent with I-872, have been impliedly repealed or amended by
24 the Initiative. The remaining allegations of Paragraph 16 are denied.

25 17. Paragraph 17 consists of legal argument. The State denies that Paragraph 17
26 accurately states the law.

1 18. Paragraph 18 consists of legal argument. The State denies that Paragraph 18
2 accurately states the law.

3 19. Paragraph 19 consists of legal argument. The State denies that Paragraph 19
4 accurately states the law.

5 20. Responding to Paragraph 20, the State has no knowledge as to whether the term
6 “Libertarian Party” is trademarked and therefore denies this allegation. The remaining
7 allegations consist of legal argument. The State denies that they accurately state the law.

8 21. Paragraph 21 consists of legal argument. The State denies that Paragraph 21
9 accurately states the law.

10 22. Responding to Paragraph 22, the State has no specific knowledge as to the
11 contents of rules adopted by the LP. The State denies that State law involves “affiliations”
12 between parties and candidates for office, other than affiliations created by the parties, and
13 further denies any remaining allegations in Paragraph 22.

14 23. Paragraph 23 consists of legal argument. The State denies that Paragraph 23
15 accurately states the law.

16 24. Paragraph 24 consists of legal argument. The State denies that Paragraph 24
17 accurately states the law.

18 25. Paragraph 25 consists of legal argument and speculation about hypothetical
19 situations. The State denies that the Secretary of State has ever taken a position concerning the
20 hypothetical election set forth in Paragraph 25. The remaining allegations are likewise denied.

21 26. Paragraph 26 consists of legal argument. The State denies that Paragraph 26
22 accurately states the law.

23 27. Paragraph 27 consists of legal argument. The State denies that Paragraph 27
24 accurately states the law.

25 **FIRST CAUSE OF ACTION: DECLARATORY JUDGMENT**

26 28. The State realleges and incorporates by references Paragraph 1 through 27.

1 29. Responding to Paragraph 29, the State admits that there is a controversy
2 between the parties concerning the constitutionality of Washington's election system. The
3 State denies that its election system is unconstitutional.

4 30. The State denies the allegations in Paragraph 30.

5 31. Responding to Paragraph 31, the State alleges that RCW 29A.20.110 through
6 .201 were impliedly repealed by the enactment of I-872, except to the extent the older statutes
7 can be implemented in harmony with the Initiative. The State further alleges that the Secretary
8 of State has authority to implement the Initiative through rules. The remaining allegations in
9 Paragraph 31 are denied.

10 32. Responding to Paragraph 32, the State admits that the LP is entitled to
11 nominate its standard bearers through conventions if the Party so chooses. The State denies
12 that state or county officials have ever interfered, or threatened to interfere, with the party
13 convention process. Any remaining allegations are denied.

14 33. The State denies the allegations in Paragraph 33.

15 34. The State denies the allegations in Paragraph 34.

16 35. The State denies the allegations in Paragraph 35.

17 36. The State denies the allegations in Paragraph 36.

18 **SECOND CAUSE OF ACTION: INJUNCTIVE RELIEF**

19 37. The State realleges and incorporates by reference Paragraphs 1 through 36
20 above.

21 38. The State denies the allegations in Paragraph 38.

22 39. The State denies the allegations in Paragraph 39.

23 40. The State denies the allegations in Paragraph 40.

24 41. The State denies the allegations in Paragraph 41.

25 **STATE'S DEFENSE**

26 1. The Complaint fails to state a claim on which relief can be granted.

PRAYER FOR RELIEF

The State Intervenor Defendants respectfully request the Court to enter judgment as follows:

1. Dismissing the Complaint for failure to state a claim on which relief can be granted.
2. Declaring that Washington's election laws, and the conduct of elections under those laws, do not deprive the Plaintiffs of any legally cognizable constitutional or other rights protected by either the Constitution and laws of the United States or of the state of Washington.
3. Denying the declaratory and injunctive relief requested by the Plaintiffs or by Plaintiff Intervenors.
4. Granting the State its reasonable fees and costs to the extent permitted by law.
5. Granting such other relief as the Court may deem appropriate.

DATED this 7th day of July, 2005.

ROB MCKENNA
Attorney General

MAUREEN A. HART, WSBA #7831
Solicitor General

/s/
JAMES K. PHARRIS, WSBA #5313
Sr. Assistant Attorney General

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CERTIFICATE OF SERVICE

I certify that on this date I electronically filed State Intervenors' Answer to Complaint in Intervention of Libertarian Party with the clerk of the Court using the CM/ECF system, which will send notification of such filing electronically to the following individuals: James Baker, Jay Carlson, Kevin Hansen, Frederick Johnson, Janine Joly, Steven Kinn, Thomas Kuffel, Ronald Marshall, David McDonald, Robert Seder, Richard Shepard, Gordon Sivley, John White, Thomas Ahearne, and Curtis Wyrick.

I sent the above-mentioned by facsimile and by first class United States Mail, postage prepaid, to the following:

Donna Eldridge
Jefferson County Auditor
PO Box 563
Port Townsend, WA 98368
FAX 360-385-9228

Vicky Dalton
Spokane County Auditor
W. 1116 Broadway
Spokane, WA 99263
FAX 509-477-6607

Executed this 8th day of July, 2005, at Olympia, Washington.

/s/ James K. Pharris
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