

August 24, 2005

VIA FEDERAL EXPRESS

Clerk of the Court  
U.S. Court of Appeals  
95 Seventh Street  
San Francisco, CA 94103-1526

**Re: *Washington State Republican Party, et al. v. State of Washington, et al.*  
Ninth Circuit Court of Appeals, Nos. 05-35774, 05-35780**

Dear Clerk:

Enclosed for filing and consideration please find Appellee Washington State Democratic Central Committee's Motion for an Order Approving and Implementing Stipulated Modification of Briefing Schedule. In the interests of time, each counsel who agreed to the stipulation attached to the motion authorized me to sign on his behalf.

Yours truly,

PRESTON GATES & ELLIS LLP

By   
David T. McDonald

DTM:lra

Enclosure

cc: Counsel

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Attorneys for Plaintiff-Intervenors - Appellees  
Washington State Democratic Central Committee, et al.

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

WASHINGTON STATE  
REPUBLICAN PARTY, et al.,  
  
Plaintiffs - Appellees,  
  
and

WASHINGTON STATE  
DEMOCRATIC CENTRAL  
COMMITTEE, et al.,  
  
Plaintiffs-Intervenors - Appellees,  
  
and

LIBERTARIAN PARTY OF  
WASHINGTON STATE, et al.,  
  
Plaintiffs-Intervenors – Appellees,  
  
v.

DEAN LOGAN, King County Records  
& Elections Division Manager,  
  
Defendant,  
  
and

STATE OF WASHINGTON, et al.,  
  
Defendants-Intervenors – Appellants,  
  
and

WASHINGTON STATE GRANGE,  
  
Defendant-Intervenor – Appellant.

No. 05-35774, 05-35780

(Dist. Ct. No. CV-05-0927-  
TSZ)

APPELLEE  
WASHINGTON STATE  
DEMOCRATIC CENTRAL  
COMMITTEE'S MOTION  
FOR AN ORDER  
APPROVING AND  
IMPLEMENTING  
STIPULATED  
MODIFICATION OF  
BRIEFING SCHEDULE

### **I. RELIEF REQUESTED**

On August 19, 2005, the Court granted a motion by the Grange to expedite review. The Court set a briefing schedule requiring the Democratic Party's answering brief in this appeal to be served October 17, 2005. Because of a pre-existing conflict, the Democratic Party requests that the Court enter an order approving the attached stipulated modification of its briefing schedule which will allow the Democratic Party until October 24, 2005 to file its answering brief but otherwise leave the briefing schedule unchanged.

### **II. GROUNDS**

Counsel for the Democratic Party has a vacation in Europe from September 28, 2005 to October 16, 2005 involving non-refundable tickets and another family. In order to comply with the briefing schedule set by the August 19, 2005 Order, counsel for the Democratic Party will either need to cancel his scheduled vacation or locate substitute counsel. Either course would create a hardship, either for counsel or for the Party. After consultation with counsel for each of the separately represented parties, the parties have stipulated to a proposed modification of the briefing schedule that will accommodate the conflict by extending the due date for the Democratic Party's answering brief until October 24, 2005. A copy of the stipulation reflecting the proposed modification is attached to this motion.

### **III. ARGUMENT**

The requested modification should not delay proceedings in this matter. It will avoid a substantial hardship for counsel for one of the parties. The stipulation

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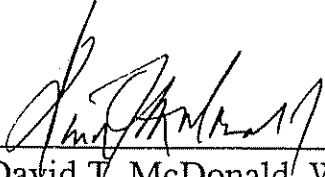
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should be approved and the briefing schedule modified accordingly.

DATED this 24<sup>th</sup> day of August, 2005.

PRESTON GATES & ELLIS LLP

By   
\_\_\_\_\_  
David T. McDonald, WSBA # 5260  
Jay Carlson, WSBA # 30411

Attorneys for Plaintiff - Intervenors - Appellees  
Washington State Democratic Central Committee,  
et al.

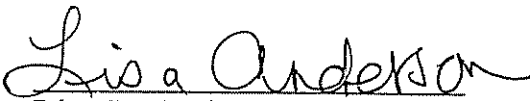
**CERTIFICATE OF SERVICE**

I hereby certify that I served the above document via email and U.S. Mail on August 24, 2005, upon the following parties:

John J. White, Jr. Livengood, Fitzgerald & Alskog 121 Third Avenue Kirkland, WA 98033 <a href="mailto:white@lfa-law.com">white@lfa-law.com</a> <b>Attorneys for Plaintiffs – Appellees</b> <b>Washington State Republican Party <i>et al.</i></b>
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I certify under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed at Seattle, Washington this 24<sup>th</sup> day of August, 2005.

  
Lisa R. Anderson  
Secretary

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UNITED STATES COURT OF APPEALS  
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LIBERTARIAN PARTY OF  
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DEAN LOGAN, King County Records  
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Defendant,

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STATE OF WASHINGTON, et al.,

Defendants-Intervenors – Appellants,

and

WASHINGTON STATE GRANGE,

Defendant-Intervenor – Appellant.

No. 05-35774, 05-35780

(Dist. Ct. No. CV-05-0927-  
TSZ)

STIPULATION  
REGARDING  
MODIFICATION OF  
BRIEFING SCHEDULE

The Parties to these appeals stipulate as follows:

1. By Order of August 19, 2005, the Court set a briefing schedule as follows:

- a. Opening briefs due on September 16, 2005;
- b. Answering briefs due on October 17, 2005; and
- c. Reply briefs due seven days after service of the answering briefs.

2. Because of a pre-existing conflict, counsel for the Democratic Party will be out of the country from September 28 through October 16, 2005.

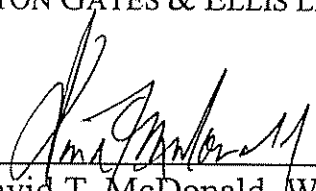
3. Subject to approval of the Court, the briefing schedule should be modified as follows:

- a. Opening briefs continue to be due on September 16, 2005;
- b. Answering briefs of the Republican and Libertarian parties continue to be due on October 17, 2005;
- c. The Answering brief of the Democratic Party shall be due on October 24, 2005; and
- d. Reply briefs shall be due seven days after service of the last Answering brief, presumably October 31, 2005.

Stipulated and agreed to this 24<sup>th</sup> day of August, 2005.

PRESTON GATES & ELLIS LLP

By

  
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Attorneys for Defendants-Intervenors - Appellants  
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and Attorney General Rob McKenna

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