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HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON STATE REPUBLICAN
PARTY, et al.,

Plaintiffs,

WASHINGTON DEMOCRATIC CENTRAL
COMMITTEE, et al.,

Plaintiff Intervenors,

LIBERTARIAN PARTY OF
WASHINGTON STATE, et al.,

Plaintiff Intervenors,

vs.

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

Defendants,

STATE OF WASHINGTON, et al.,

Defendant Intervenors,

WASHINGTON STATE GRANGE, et al.,

Defendant Intervenors.

NO. CV05-0927-TSZ

SUPPLEMENTAL DECLARATION
OF JOHN J. WHITE, JR.

NOTE ON MOTION CALENDAR:
WEDNESDAY, JULY 13, 2005

WITH ORAL ARGUMENT

1 JOHN J. WHITE, JR. declares under penalty of perjury under the laws of the State of
2 Washington and the United States of America as follows:

3 1. I am one of the attorneys for the plaintiffs in this lawsuit, am competent to
4 testify, and make this declaration of my own personal knowledge.

5 2. Attached hereto as Exhibit 1 is a true and correct copy of a printout of an article
6 dated June 12, 2005 and entitled "GOP picks its official primary candidates," published by The
7 Seattle Times at <http://seattletimes.nwsourc.com>.

8 3. Attached hereto as Exhibit 2 is a true and correct copy of a printout of the 1996
9 election results for statewide partisan offices, published by The Seattle Times at
10 <http://seattletimes.nwsourc.com/politics/results/primary/VOTE2.html>.

11 4. Attached hereto as Exhibit 3 is a true and correct copy of a printout of an article
12 dated October 12, 2004 and entitled "Locke, three ex-governors urge no vote on 'top two'
13 primary initiative," published by The Seattle Post-Intelligencer at
14 <http://seattlepi.nwsourc.com>.

15

16 SIGNED this 17th day of June, 2005 in Kirkland, Washington.

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18 /s/ John J. White, Jr.
19 JOHN J. WHITE, JR.

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\\Sandy\322\JJW\WSRPI-872 litigation\pleadings\Mot.Summ.Judg.Decl.JJW.wpd

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EXHIBIT 1

Sunday, June 12, 2005, 12:00 A.M. Pacific

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GOP picks its official primary candidates

By Eric Prync

Seattle Times staff reporter

Defiant King County Republicans, refusing to accept the state's new "top two" primary, convened in Bellevue yesterday and chose the candidates they contend will be the party's official nominees for county offices in September.

In the only close contest, Metropolitan King County Councilman Steve Hammond, R-Enumclaw, outpolled fellow Councilman Reagan Dunn, R-Bellevue, in the new 9th Council District, 234 votes to 209. The two were thrown into the same district after voters by initiative last year downsized the council from 13 members to nine.

It's unclear, however, exactly what Hammond's victory means.

The state Republican Party, which says the top-two primary is unconstitutional, has asked a federal judge to rule that only the candidates chosen at yesterday's convention are legally entitled to be labeled Republicans on the September primary ballot.

The party also has asked losers to accept the convention's decision and not file for office in July.

In the weeks before the convention, both Hammond and Dunn said they intended to abide by its outcome. But after yesterday's vote, Dunn said he would file anyway, although he didn't know whether he would do so as a Republican.

"I can't abandon this campaign because of 24 votes in June," he said, referring to Hammond's victory margin (and getting his math slightly wrong).

Dunn said his earlier commitment to accept the convention's outcome was contingent on Hammond following the Republicans' so-called 11th Commandment — speak no ill of another Republican — and, he said, Hammond had broken that rule. Hammond backers had made "hit" phone calls to delegates Friday night, Dunn said, but he would provide no details.

Hammond denied fighting dirty: "I've had everything but the kitchen sink thrown at me." If he had lost, he said, he would have backed Dunn.

Democrats to convene

King County Democrats have scheduled a similar gathering later this month, but Secretary of State Sam Reed has said elections officials will pay no attention to the party conventions. Candidates, as before, are free to choose party labels when they file, without party approval, Reed has said.

But King County GOP Chairman Michael Young said yesterday that if Dunn files as a Republican, the state party

will go to court to remove that label from the ballot.

Whatever the prize was at the GOP convention, Hammond and Dunn campaigned hard for it. This was retail politics in the extreme: The electorate consisted solely of 9th District precinct committee officers and delegates elected at caucuses May 17.

Roberta Yates, a precinct committee officer from Renton, said Dunn had come to her home to seek her vote, and Hammond had phoned. She said she had received mail supporting one candidate or the other just about every other day for the past month.

The choice was between two conservatives who differed little on the issues.

"The bad news is that one will lose," Will Cummings, a precinct committee officer from Covington, said before the vote. "Many of us are rethinking the idea of reducing the size of the council."

Dunn, 34, appointed to the council in February, has more money — about \$150,000 so far, compared with Hammond's \$24,000 — and the support of many GOP big names. He is the son of Jennifer Dunn, former U.S. representative and Republican power; other backers included former U.S. Sen. Slade Gorton and KVI-AM (570) talk-show host John Carlson.

Dunn argued he was more electable. He said the 9th is a swing district, and noted Hammond narrowly defeated a Democratic challenger two years ago.

Hammond, 51, a former minister, emphasized his experience and rural roots. Without him, he argued, rural southeast King County wouldn't have a representative on the council.

He attributed his win over the better-financed Dunn to grass-roots effort.

"There's just a little bit of a feeling of Rocky Balboa in me," Hammond said after the vote.

Conventions new this year

The major parties' unprecedented nominating conventions this year are the latest chapter in their long-running campaign to gain a larger voice in the state's primary elections.

Federal judges in 2003 struck down the venerable "blanket" primary. It allowed voters to pick candidates from any party; the top vote-getter from each party advanced to the November ballot. The parties challenged that system, arguing that it violated their First Amendment right of association because it allowed voters who weren't party members to participate in selecting a party's nominees.

State voters last fall overwhelmingly approved Initiative 872, creating a top-two primary in which the top two vote-getters advance to the general election, regardless of party. But the parties contend it has the same constitutional flaws as the blanket primary.

In the only other contested race yesterday, incumbent Pete von Reichbauer of Federal Way beat back a last-minute challenge from former state Rep. Phil Fortunato of Kent for the GOP nod in the 7th County Council District.

County Councilman David Irons, R-Sammamish, was the convention's choice to challenge County Executive Ron Sims, a Democrat.

The convention's other picks for County Council races were Steven Pyeatt in the 1st District, Brian Thomas in the 2nd, incumbent Kathy Lambert in the 3rd, Orin Wells in the 5th and incumbent Jane Hague in the 6th.

Eric Pryne: 206-464-2231 or epryne@seattletimes.com

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EXHIBIT 2



ELECTION '96: WASHINGTON

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NORTHWESTGet out and explore. Visit our
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campaigns**[Election
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propositions](#)[Front Porch
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classroom**[Political
primer](#)[Test your
voting smarts](#)[Student
projects](#)[Election
links](#)[Credits](#)Please see note on the [Table of Contents page](#) for information on when we are posting and updating election returns.

* - Incumbent

✓ - Candidate advances to Nov. 5 general election (no mark - too close to call; recount may decide it). Third-party candidates advance to the general election only if they attain at least 1 percent of the votes cast for the office in the primary.

Key to party affiliation: D (Democrat), I (Independent), L (Libertarian), NL (Natural Law), P (Populist), R (Republican), Re (Reform), SW (Socialist Workers)[Congressional races](#) | [Statewide races](#) | [Legislative](#) |
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Governor

DEMOCRATS

Max Englerius, D	2,837	(0.2%)
Jay Inslee, D	118,571	(10%)
✓ Gary Locke, D	287,761	(24%)
Norm Rice, D	212,886	(18%)
Mohammad Said, D	3,007	(0.2%)
Bryan Zetlen, D	6,152	(1%)

REPUBLICANS

Nona Brazier, R	21,237	(2%)
✓ Ellen Craswell, R	185,680	(15%)
Dale Foreman, R	162,612	(13%)
Warren Hanson, R	4,886	(0.4%)
Norm Maleng, R	109,088	(9%)
Pam Roach, R	29,533	(2%)
Bob Tharp, R	4,816	(0.4%)
Jim Waldo, R	63,853	(0.5%)

[Education
home page](#)

OTHER PARTIES

Jeff Powers, SW	3,742	(0.3%)
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Lieutenant Governor**DEMOCRATS**

Harvey Billmaier, D	13,613	(1%)
Frank Gavaldon, D	32,638	(3%)
Bambi Litchman, D	34,326	(3%)
Bob Owen, D	44,510	(4%)
✓ Brad Owen, D	242,756	(23%)
Paul Shin, D	235,461	(22%)

REPUBLICANS

✓ Ann Anderson, R	207,725	(19%)
Bruce Buckles, R	19,951	(2%)
Gerald Goodloe, R	50,771	(5%)
Ed Torres, R	58,802	(6%)
Jim West, R	96,979	(9%)

OTHER PARTIES

Michael Hackett, NL	8,945	(1%)
✓ Shawn Newman, Re	10,774	(1%)
✓ Art Rathjen, L	11,902	(1%)

Attorney General

✓ C. Gregoire, D*	640,029	(57%)
✓ Richard Pope, R	415,188	(37%)
✓ L. Coachman, NL	24,031	(2%)
✓ Richard Shepard, L	37,314	(3%)

Commissioner of Public Lands

✓ J. Belcher, D*	567,007	(53%)
Randy Boss, R	69,538	(7%)
✓ Bruce Mackey, R	291,694	(27%)
Patrick Parrish, R	108,877	(10%)
✓ Marc Strauch, NL	25,527	(2%)

Secretary of State

✓ Ralph Munro, R*	643,622	(60%)
✓ Phyllis Kenney, D	388,405	(36%)
✓ Gary Gill, NL	33,571	(3%)

State Auditor

✓ Brian Sonntag, D*	603,662	(57%)
Nina Becker, R	192,855	(18%)
✓ Robert Keene Jr., R	199,721	(19%)
Mike The Mover, R	66,429	(6%)

State Treasurer

Jack Kiley, D	156,904	(15%)
✓ Mike Murphy, D	382,262	(37%)
Randolph Bell, R	201,220	(20%)
✓ Lucy DeYoung, R	288,856	(28%)

Superintendent of Public Instruction

✓ Teresa Bergeson	379,544	(38%)
O. Jerome Brown	32,127	(3%)
Raul de la Rosa	37,646	(4%)
Richard Fuller	47,444	(5%)
N. Hidden-Dodson	53,969	(5%)
Gloria Johannessen	43,736	(4%)
Earl LaBerge	14,540	(2%)
Dan Leahy	68,994	(7%)
Mae Lovern	18,019	(2%)
✓ Ron Taber	174,988	(18%)
Chris Vance	119,644	(12%)

Insurance Commissioner

DEMOCRATS

✓ Deborah Senn, D* 571,165 (54%)

REPUBLICANS

Garland Connor, R 23,769 (2%)
 ✓ Anthony Lowe, R 173,610 (16%)
 Brian McCulloch, R 124,513 (12%)
 Steve Skipper, R 63,470 (6%)
 Dave Walker, R 77,571 (7%)

OTHER PARTIES

✓ Steve Sevick, NL 23,554 (2%)

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EXHIBIT 3

SEATTLE POST-INTELLIGENCER

http://seattlepi.nwsourc.com/local/194794_primary12.html

Locke, three ex-governors urge no vote on 'top two' primary initiative

Tuesday, October 12, 2004

By NEIL MODIE
SEATTLE POST-INTELLIGENCER REPORTER

Opponents of Initiative 872 trotted out a bipartisan array featuring Gov. Gary Locke and three former governors yesterday in a political name-dropping battle over an effort to give Washington a Louisiana-style primary election system.

"It fundamentally will limit the choices the voters will have in the election in November" if voters pass I-872, Locke warned. The initiative, on the Nov. 2 ballot, would create a "top two," or "qualifying," primary system that sends the two highest primary vote-getters into the general election even if both belong to the same party.

Locke and former Govs. Mike Lowry and Booth Gardner, all Democrats, and John Spellman, a Republican, have sided with Democratic, Republican and Libertarian party leaders against the initiative. All but Gardner attended a Seattle news conference to denounce it.

The Yes on I-872 campaign, sponsored by the Washington State Grange to replace the state's new, separate-party primary, also has its share of big political backers, including former Gov. Dan Evans, former Sen. Slade Gorton and Secretary of State Sam Reed, all Republicans, and Lt. Gov. Brad Owen, a Democrat.

The only living former governor not recruited by either side is Albert Rosellini, a Democrat, who had a role in a Seattle City Council campaign finance scandal that is the subject of a criminal investigation by the King County Prosecutor's Office.

Proponents expect voter resentment of the loss of the popular former "blanket primary" to help pass I-872. The blanket primary let voters cross party lines on the primary ballot. But the state Democratic, Republican and Libertarian parties sued successfully in federal court to have it declared unconstitutional.

The "top two" primary would vaguely resemble the blanket primary in allowing voters to cross party lines. But by limiting the general-election ballot to two nominees for each office, Locke said, it almost always would keep third-party candidates -- and occasionally even major-party candidates -- off the November ballot.

And it "will in no way bring back the blanket primary," Lowry said.

"It's a skewed system," Spellman said, adding, "Everyone thinks of this as a panacea. It ain't. It's worse" than either the blanket primary or the current system, which requires a voter to choose only one party's primary ballot but doesn't keep a record of which one is chosen.

State party leaders have threatened to select party nominees at party conventions if I-872 passes. Spellman said the initiative makes no provision for allowing convention-chosen nominees onto the November ballot "unless (the parties) went to court, and that would be chaotic."

Evans, however, predicted in an interview later that if the initiative fails, the parties "will be back again to try to gain more control. They next will want to close the primaries to only those who declare themselves Republicans and Democrats" even though they deny intending to do so.

Noting Washington's tradition of political independence and moderation, Evans said, "The states that have the most

closed primaries are invariably the states that pick the more liberal Democrats and the more conservative Republicans. They leave out the more productive middle, and as such I think they end up with poorer office holders and not so good government."

Spellman said he wouldn't have been elected under a "top two" system because two Democrats outpolled him in the 1980 primary even though he went on to win the general election. And in the 1996 gubernatorial primary that Locke won, he and fellow Democrat Norm Rice would have been on the November ballot if the "top two" primary had been law.

In heavily Democratic parts of Seattle or heavily Republican parts of Eastern Washington, Locke said, general-election voters would be deprived of the other party's point of view, and usually the minor parties' points of view as well.

However, a Yes on I-872 campaign worker passed out material at the opponents' news conference, noting that if Washington had a "top two" system, four minor-party candidates in 2002 and 13 minor-party candidates in 2000 would have qualified for the general-election ballot in state legislative races.

It contradicts arguments of initiative opponents "who have irresponsibly stated that I-872 will shut out minor parties," the Yes on I-872 committee said in a prepared statement. However, in the 17 races the proponents cited, there would have been either no Republican or no Democrat on the November ballot.

"The truth is that minor party candidates have just as good of a chance of succeeding under a qualifying primary as anyone else," said Don Whiting, a former state elections supervisor and an I-872 leader.

Louisiana, with its "Cajun primary," is the only state that allows two candidates of the same party to appear on the general-election ballot. Washington's system, adopted this year, is identical to that of nine other states. Thirty-nine other states have "closed" primaries, requiring voters to publicly declare a party affiliation.

P-I reporter Neil Modie can be reached at 206-448-8321 or neilmodie@seattlepi.com

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