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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

MOTION TO INTERVENE BY
STATE OF WASHINGTON;
SECRETARY OF STATE, SAM
REED; AND ATTORNEY
GENERAL, ROB MCKENNA

**Noted for Consideration:
June 17, 2005**

The State of Washington, together with Sam Reed, Washington Secretary of State,
and Rob McKenna, Washington State Attorney General, move to intervene in this action as

1 additional parties defendant. This motion is made pursuant to Civil Rule 24(a), (b), (c), and
2 to 28 U.S.C. § 2403(b).

3 **I. IDENTITY OF INTERVENORS**

4 The State of Washington is one of the fifty sovereign states that constitute the United
5 States of America. Sam Reed is the duly elected Secretary of State of the state of
6 Washington. Rob McKenna is the duly elected Attorney General of the state of Washington.
7 The State's Answer to the Complaint filed herein is Exhibit A to this Motion.

8 **II. NATURE OF CASE**

9 This is a suit brought by the Washington State Republican Party and certain of its
10 officers, asserting that certain laws enacted by the State of Washington (specifically Initiative
11 Measure No. 872, enacted by initiative and taking effect on December 2, 2004), are
12 unconstitutional and that their implementation and enforcement should be enjoined. The
13 Democratic and Libertarian Parties have filed motions to intervene, making allegations
14 similar to those of the Republicans. The named defendants are the principal election officers
15 of nine counties in Washington.

16 **III. NATURE OF STATE'S INTEREST IN INTERVENING**

17 Federal statute gives the State the right to intervene in a federal case, to offer
18 evidence, and to present argument defending the constitutionality of a state law if a case
19 includes an assertion that the state law is contrary to the United States Constitution or to
20 federal law. 28 U.S.C. § 2403(b). Civil Rule 24(c) instructs the Court to notify the State
21 Attorney General in such a case.¹

22 In addition, the State asserts that it is also entitled to intervene under Rule 24(a),
23 because both Secretary Reed and Attorney General McKenna have duties and responsibilities
24 that are affected by this action and which could be impaired or impeded if the State is not a

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26 ¹ The Plaintiff Republican Party delivered a courtesy copy of the pleadings to the State Attorney General shortly after the case was filed.

1 party to the case. The Secretary of State is the chief elections officer of the State (RCW
2 29A.04.230) and is responsible for ensuring that county auditors are provided with the most
3 recent version of the election laws (RCW 29A.04.235). The Secretary of State is authorized
4 and directed to make rules concerning, among other subjects, the layout and preparation of
5 ballots, the procedures and forms for declarations of candidacy for public office, procedures
6 for filing for office, and the procedures for conducting partisan primary elections. RCW
7 29A.04.611.² The Attorney General is charged with appearing for and representing the State
8 in all case in which the State is interested, and defending actions and proceedings against
9 state officers and employees. RCW 43.10.030.

10 The State has no reason to doubt that the nine county officers named as Defendants
11 will vigorously defend their actions and, by extension, the state laws they are responsible for
12 administering. However, the State and its officers have a more direct responsibility to
13 respect and defend the validity of state statutes, and to do so on behalf of the State itself. The
14 State can also assist the county officers in coordinating the defense of the action.

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25 ² The Secretary of State has adopted emergency rules for the conduct of the 2005 elections under
26 Washington's current election laws, including those enacted as parts of Initiative Measure 872. A copy of the
rules adopted is Exhibit B to this Motion.

1 **CERTIFICATE OF SERVICE**

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3 I certify that on this date I have caused a true and correct copy of:

4 1) Motion to Intervene by State of Washington, Secretary of State Sam Reed, and
5 Attorney General Rob McKenna

6 2) Proposed Order Granting Motion to Intervene

7 3) Answer of State of Washington Intervenors

8 to be served via e-mail on the Democratic Central Committee's attorneys, David McDonald and
9 Jay Carlson, the Libertarian Party's attorney, Richard Shepard, the Secretary of State, and the
10 Grange.

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14 Executed this 2nd day of June, 2005, at Olympia, Washington.

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17 Becky Waldron
18 Legal Assistant