**UNITED STATES COURT OF APPEALS**
**FOR THE NINTH CIRCUIT**

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| WASHINGTON STATE REPUBLICAN PARTY, et al.,<br><br>Appellee/Plaintiffs,<br><br>WASHINGTON DEMOCRATIC CENTRAL COMMITTEE, et al.,<br><br>Appellee/Plaintiff Intervenors,<br><br>LIBERTARIAN PARTY OF WASHINGTON STATE, et al.,<br><br>Appellee/Plaintiff Intervenors,<br><br>v.<br><br>DEAN LOGAN, King County Records & Elections Division Manager, et al.,<br><br>Defendants.<br><br>STATE OF WASHINGTON, et al.,<br><br>Appellant/Defendant Intervenor,<br><br>WASHINGTON STATE GRANGE,<br><br>Appellant/Defendant Intervenor. | NO. 05-35774<br><br>NO. 05-35780<br><br>APPELLANTS STATE OF WASHINGTON, WASHINGTON SECRETARY OF STATE SAM REED, AND WASHINGTON ATTORNEY GENERAL ROB MCKENNA'S<br><br>**REPLY IN SUPPORT OF THE PENDING MOTION TO EXPEDITE REVIEW**<br><br>PURSUANT TO CIRCUIT RULES 27-12 & 34-3(3)<br><br>(USDC WD No. CV05-0927-Z) |

Appellants State of Washington, Secretary of State Sam Reed, and Attorney General Rob McKenna, file this Reply in support of the pending Motion To Expedite Review.

As noted in that Motion, when it was served on July 29, 2005, the above Appellants support the expedited review requested by the Washington State Grange, which is the other Appellant in the appeal of the trial court's July 29, 2005, permanent injunction. The voters of the state of Washington overwhelmingly voted to adopt a top two primary system for, *inter alia*, the State's upcoming 2006 elections. The Appellant State of Washington also files this Reply in its capacity as the party who substituted into this case on behalf of the State's county auditors who were originally named as defendants in this action (Trial Court Docket No. 67). The Appellant Washington Secretary of State Sam Reed files this Reply in his capacity as the Chief Elections Officer of the State of Washington. Finally, the Appellant Washington Attorney General Rob McKenna files this Reply in his capacity as the Chief legal counsel for the State of Washington, its Legislature, and its People.

The above Appellants support the pending Motion To Expedite for the reasons explained in the Grange's original Motion and the Grange's subsequent Reply, which the above Appellants do not repeat here. The above Appellants do, however, want to reply separately to the suggestion in the plaintiff political parties' opposition to expedited review that expedition is supported simply by a

run-of-the-mill private litigant who wants "preferential treatment" in a run-of-the-mill appeal concerning a run-of-the-mill dispute between private litigants.

Washington's voters have an interest, independent of that of the Grange, in the enforcement of an initiative measure that they adopted. The purpose of the expedited review schedule requested by the pending Motion To Expedite is to protect the rights and interest of Washington's voters to have a top two election system in the 2006 election cycle, if this Court's decision in this appeal holds anything other than that all top two systems are *per se* unconstitutional.

If this Court reverses the trial court and upholds Initiative 872, such a decision should, if possible, be made in time to allow the use of the top two system in 2006. Alternatively, if this Court were to find that some portion of the initiative is unconstitutional, but that the problematic portions could be severed while preserving the basic features of the top two system, there should be an opportunity to implement such a finding in 2006. Finally, even if this Court were to affirm the trial court in invalidating the entire initiative, Washington's Legislature and its voters should have a reasonable opportunity to enact an alternative system of their choosing before the 2006 elections are conducted.

The Appellant State of Washington, Appellant Washington Secretary of State, and Washington Attorney General all accordingly request that this Court

GRANT the pending Motion To Expedite for the reasons stated above as well as the reasons explained in the Grange's original Motion and subsequent Reply.

RESPECTFULLY SUBMITTED this 15th day of August, 2005.

ROB MCKENNA
Washington State Attorney General

MAUREEN A. HART, WSBA #7831
*Washington State Solicitor General*
JAMES K. PHARRIS, WSBA #5313
*Sr. Assistant Attorney General*
JEFFREY T. EVEN, WSBA #20367
*Assistant Attorney General*
P.O. Box 40100
Olympia, WA 98504-0100
360-753-2536

Counsel for Appellants State of Washington, Rob McKenna, and Sam Reed