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SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THURSTON COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

TIM EYMAN, individually, as committee officer for Voters Want More Choices – Save the 2/3s and Protect Your Right to Vote on Initiatives, and as principal of TIM EYMAN WATCHDOG FOR TAXPAYERS, LLC; TIM EYMAN WATCHDOG FOR TAXPAYERS, LLC, a Washington limited liability company; WILLIAM AGAZARM, individually and as a principal of CITIZEN SOLUTION LLC, a Washington limited liability company; and CITIZEN SOLUTIONS LLC, a Washington limited liability company,

Defendants.

NO. 17-2-01546-34

DEFENDANTS’ RESPONSE,  
OBJECTION AND REQUEST TO STRIKE  
OR CONTINUE STATE’S MOTION FOR  
CONTEMPT

**I. INTRODUCTION**

The Plaintiff’s suit is based entirely on the truthful and voluntary 2014 testimony of Defendant Eyman regarding payments he received for consulting in 2012. The amount he was paid, who paid him and when he was paid are undisputed and have been for four years. The Plaintiff’s motion to compel is borne of its frustration that, on these undisputed and

1 agreed facts,<sup>1</sup> it cannot demonstrate that any Defendant has violated the Fair Campaign  
2 Practices Act.

3 In response, the Plaintiff seeks to distract from this cold reality with colorful diagrams,  
4 breathless press releases and pleadings that paint the Defendants (who have undergone five  
5 sworn interviews in the past four years – including just last month -- and turned over  
6 thousands of pages of highly sensitive documents) as recalcitrant scofflaws. The Plaintiff  
7 resorts to this hyperbole because its case is weak and, unless it can distract the Court with  
8 conspiracy theories and conjecture, it will lose at trial on the facts that have been established  
9 and known by both sides for four years.  
10

11 The motion currently before the Court is no exception. The Plaintiff seeks to  
12 manufacture a controversy by filing a surprise motion the same week that the undersigned  
13 counsel returned from a notice of unavailability and pledged to update discovery requests --  
14 with Defendants' response due the day before this agreed update is to be delivered. The  
15 motion itself was served on the Defendants' counsel during this notice of unavailability that  
16 was filed in October of last year. Moreover, the motion deals squarely with a discovery issue  
17 which, by order of this Court, should be addressed by the Special Master. This would be the  
18 very same Special Master the Plaintiff itself insisted on arguing, "The time is now to appoint a  
19 special master while discovery is underway and being thwarted by the Defendants." It is  
20 somewhat ironic that the Plaintiff complains loudly of the Defendants not following court  
21 orders in a motion that directly contradicts an order of this Court.  
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25 <sup>1</sup> See Answer at 4.24, 4.27 and 4.28.  
26



1 The Special Master shall have *full power and authority* to adjudicate *any and all*  
2 *discovery disputes*, and to issue orders deemed necessary for the fair, reasonable and  
3 efficient prosecution of discovery. The Special Master is granted the discretion to  
4 determine which, if any, discovery disputes he will resolve by way of his own orders,  
5 and which will be resolved by way of a report to the court with recommendations as to  
6 the resolution of such disputes, as contemplated by CR 53.3. [Emphasis added].

7 The Defendants reminded Plaintiff of both the notice of unavailability and the  
8 jurisdiction of the special master in correspondence on October 8, 2017, offering to stipulate  
9 to a continuance to a date when the Special Master could here this matter. The State declined.

#### 10 Lamb Declaration

11 The Plaintiff conducted two depositions of Defendants during the week of December  
12 10<sup>th</sup>, 2017. Following the deposition of Defendant Eyman on the 14<sup>th</sup>, the undersigned  
13 counsel indicated that Defendants would provide updated discovery responses on January  
14 10<sup>th</sup>, 2018 following the period of unavailability for counsel (and travel for Defendants).  
15 Counsel for the State did not object to this date or demand an earlier response at that time.

16 Lamb Declaration.

### 17 18 III. ISSUE STATEMENT

19 Should a motion to compel be heard and granted when: a.) the Defendants have  
20 updated discovery by January 10, 2018, b.) the motion to compel was served during a notice  
21 of unavailability and, c.) this Court has ordered that all discovery disputes are to be addressed  
22 through the Special Master? **No.**

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#### IV. ARGUMENT

The Defendants in this matter have been questioned under oath five times in the last four years, including just last month. Following the deposition of Defendant Eyman on December 14<sup>th</sup>, 2018, counsel for the Defendants and the Plaintiff conferred, and the undersigned counsel indicated that additional discovery responses would be provided by January 10, 2018 following the return of counsel from a notice of unavailability and Defendant from holiday related travel. Counsel for the State did not indicate that this date was unacceptable, much less that it would bring a motion for contempt even if it were complied with.

The present motion is brought to generate publicity<sup>3</sup> and violates the clear directive of this Court that discovery disputes be addressed by the special master. The motion was served during a notice of unavailability and, more importantly, with the full knowledge that the Defendants had pledged to update discovery responses by January 10, 2018, following the return of counsel from the notice of unavailability and Defendants from travels related to the holidays. Defendants have every confidence that all remaining issues will be addressed to the satisfaction of the Court by the hearing date, but the task is made more difficult by having to respond to the present motion in addition to updating its responses to the voluminous requests at issue in this case.

The relief requested by the Plaintiff: dismissal of all counterclaims, \$2,000 a day fines and potential imprisonment, speak to the headline-seeking savvy of the Attorney General who

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<sup>3</sup> See <http://www.seattlepi.com/local/politics/article/Connelly-Attorney-General-wants-Eyman-held-in-12474987.php>

1 animates this action. No doubt, when Defendants' responses are delivered as promised on  
2 January 10, 2018, the Plaintiff will claim that it was the threat of this motion (as opposed to  
3 the pledge of the Defendants given weeks ago) that prompted such action. This Court should  
4 view such claims, along with the predictable requests for fees to financially damage the  
5 Defendants, with skepticism.  
6

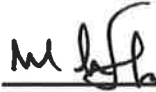
7 Defendants do not address the substance of the motion because time does not permit  
8 them to do so as: 1.) the motion was served during a notice of unavailability, and 2.) they are  
9 working to provide updated responses by tomorrow as pledged. For purposes of illustration,  
10 the Defendants will note that many of the requests were in fact addressed in the December 14,  
11 2017 deposition of Mr. Eyman, including all questions concerning cell phone and email  
12 providers.  
13

#### 14 **IV. CONCLUSION & RELIEF REQUESTED**

15 The present motion should be stricken, or in the alternative continued to January 19,  
16 2017 to be heard by the special master. This would afford the Plaintiff's an opportunity to  
17 review Defendants January 10<sup>th</sup> transmittal and see if it still required the intervention of the  
18 special master (or, in the Plaintiff's opinion, the Court). The motion was served during a  
19 notice of unavailability and, coupled with the deadline of a January 10, 2018 response, did not  
20 provide Defendants an adequate or fair time to respond. The Plaintiff has refused to continue  
21 the matter or allow the special master to address it. Accordingly, Defendants respectfully  
22 request that the Court deny the Plaintiff's motion for contempt.  
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1 DATED this 9<sup>th</sup> day of January, 2018

2 THE NORTH CREEK LAW FIRM

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5 Mark C. Lamb, WSBA No. 30134  
6 Attorney for Defendants  
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DECLARATION OF SERVICE

On this date I caused to be served a true and correct copy of the within and foregoing DEFENDANTS' RESPONSE, OBJECTION AND REQUEST TO STRIKE OR CONTINUE STATE'S MOTION FOR CONTEMPT on the following, in the manner indicated:

Attorney General of Washington  
Linda Dalton  
Todd Sipe  
Jeffrey Sprung  
1125 Washington Street  
P.O. Box 40100  
Olympia, WA 98504-0100

- Via first class mail, postage prepaid
- Via facsimile
- Via Legal Messengers
- Other: Via Electronic Mail

I declare, under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.

DATED this 9<sup>th</sup> day of January, 2018.

  
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Mark Lamb



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**SUPERIOR COURT OF WASHINGTON  
IN AND FOR THURSTON COUNTY**

STATE OF WASHINGTON,

Plaintiff,

No. 17-2-01546-34

v.

**DECLARATION OF MARK LAMB IN  
SUPPORT OF DEFENDANTS'  
RESPONSE TO MOTION FOR  
CONTMEPT**

TIM EYMAN, individually, as committee officer for Voters Want More Choices – Save the 2/3s and Protect Your Right to Vote on Initiatives, and as principal of TIM EYMAN WATCHDOG FOR TAXPAYERS, LLC; TIM EYMAN WATCHDOG FOR TAXPAYERS, LLC, a Washington limited liability company; WILLIAM AGAZARM, individually and as a principal of CITIZEN SOLUTION LLC, a Washington limited liability company; and CITIZEN SOLUTIONS LLC, a Washington limited liability company,

Defendants.

I, Mark C. Lamb, hereby state and declare as follows:

1. I am the attorney for the Defendants in this action. I have personal knowledge of and am competent to testify to the facts set forth below.

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2. Defendant Eyman has voluntarily provided sworn testimony on three separate occasions over the past four years

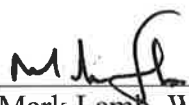
3. In the most recent instance, I sat with Defendant Eyman for a deposition on December 14, 2018. Following this deposition counsel for the Plaintiff inquired as to the status of discovery responses. I indicated (after conferring with Defendant Eyman) that Defendants would provide additional responses by December 10, 2018, following my return from the notice of unavailability and my client's planned travel. Counsel for the Plaintiff did not object to this date nor indicate that he would bring a motion for contempt if it was complied with.

4. After receiving the motion for contempt I wrote to counsel for the Plaintiff and pointed out that this motion was defective as it was served during my notice of unavailability and was not set before the special master for discovery disputes. Counsel for the state indicated that they would not agree to a continuance or to having the matter heard before the special master.

5. I HEREBY DECLARE under penalty of perjury, under the laws of the State of Washington, that the foregoing is true and correct to the best of my knowledge and that this declaration was executed this 9<sup>th</sup> day of January, 2018 at Bothell, Washington.

RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of January 2018.

THE NORTH CREEK LAW FIRM

By   
Mark Lamb, WSBA No. 30134  
Counsel for Defendants