☐ EXPEDITE
☐ No hearing set
☒ Hearing is set
Date: Friday, Jan 18, 2019
Time: 9:00 am
Judge: Hon. James Dixon

STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

TIM EYMAN, et al.,

Defendants.

No. 17-2-01546-34

TIM EYMAN'S PRO SE RESPONSE TO MOTION FOR LEAVE TO AMEND THE STATE'S COMPLAINT

AND

EYMAN'S MOTION FOR A STAY OF DISCOVERY UNTIL THE BANKRUTCY COURT AUTHORIZES NEW LEGAL COUNSEL

Judge Dixon, I ask you to deny the Attorney General's request for even greater opportunities to persecute me, my family, and my friends. I'm hopeful that once you learn what's been happening, you will not grant the State's motion. But to understand why their request should be denied, you need to know what's been going on.

THE COURT SHOULD STAY DISCOVERY UNTIL I OBTAIN NEW COUNSEL APPROVED BY THE BANKRUPCTY COURT[1]

I am filing this pro se because I've been forced to represent myself in this motion because the knowledgeable, experienced attorney who I wanted to represent me – Joel Ard – was bullied off my case by the State. And as a result, my interests have clearly been prejudiced. As you know, I filed for bankruptcy on November 28, 2018. I did so because of the overwhelming costs to defend myself (The AG has an unlimited supply of taxpayers' money to fund his legal onslaught against me while I only have my own money and help from friends and family to fight this – and the costs have been stratospheric: before filing for Chapter 11, the total costs over the past six years had reached nearly $800,000 – just before filing, I received a bill for legal costs that was nearly $80,000).

I, Tim Eyman, must get the permission of the bankruptcy judge for an attorney to represent me. On January 4, 2019, my bankruptcy counsel filed a motion to name Mr. Ard as my attorney. The State vigorously opposed the motion and argued aggressively against him. With a straight face, Linda Dalton said that Joel Ard "wasn't competent" to handle my case. Why? Because, she said, since he was a sole practitioner, he would never be able to keep up with all the demands the State had planned to impose on me. She specifically referenced 35 third-party depositions that the State was trying to pursue. Thus, she argued, no sole practitioner could handle all that.

The State prevailed – the bankruptcy judge did not authorize Joel Ard to represent me. He filed his withdrawal the following Monday. It was a surprising, shocking, completely unexpected turn of events. I couldn't believe it. It is highly prejudicial to my interests to have the prosecutors successfully blocking me from getting legal representation by bombarding any counsel with an overwhelming number of depositions pancaked on top of one another. By the Attorney

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[1] I am aware that my own motion may need additional notice and if the Court cannot rule on this motion for a stay on Friday January 18, 2019, then I will schedule it for the next available time for the Court. But, as addressed below, the State has scheduled depositions for Tuesday, January 22, 2019 and I do not and cannot have counsel to represent me at those depositions.

General's own argument, the only competent legal counsel I could possibly have is a law firm with multiple attorneys all completely up to speed with the details of the case. I do not have replacement counsel at this time and even if I did, they need to be approved by the bankruptcy court. None of that can done in time for the onslaught of depositions which begin **one week from today on January 22, 2019.**

After filing his withdrawal, Mr. Ard asked the State for a brief delay to give me a little time to retain new counsel. *See* Exhibit 1 attached hereto. The State did not respond to the request for a delay, but instead responded with a blizzard of motions and notices of depositions. When they demanded that Mr. Ard respond to one of their motions that was to be heard on January 17 by Judge Tabor, *even though the Attorney General's Office knew he wasn't authorized to represent me*, Mr. Ard sent Judge Tabor an email that discusses the impossible position I'm now in. A true and correct copy of that email is attached hereto as Exhibit 1. The following is the most significant:

> I write to request that you take no immediate action on the discovery motion filed by the State yesterday, and require no response from Mr. Eyman until after January 17th. Fundamentally, the State's motion puts both Mr. Eyman and me, professionally, in an impossible position, and it does so knowingly and intentionally. The State filed the motion as its sole response to my specific request that it delay any such motion until either Mr. Eyman can find replacement counsel or he proceeds pro se on January 18th.
> ...
>
> As you know, Mr. Eyman filed for bankruptcy protection in late November. Pursuant to federal bankruptcy law, no attorney may represent Mr. Eyman – or, I think more accurately, no attorney may represent his bankruptcy estate which is now the entity liable for any eventual fine in this case – without leave of the bankruptcy court. Because leave of court cannot be sought on the day of filing, practitioners generally continue work and seek appointment *nunc pro tunc* back to the day of filing. Together with bankruptcy counsel, I continued work in December and sought appointment as special counsel, specifically for this case. To my surprise, the State opposed my appointment, on the grounds that I am not, in the State's view, competent to handle discovery matters in *State v. Eyman*. At the hearing on that motion, held Friday, January 4th, the State prevailed. I was not appointed. In other words, the State prevailed in arguing to the Bankruptcy Court that I failed to demonstrate that I am competent to handle discovery matters in *State v. Eyman*. At that hearing, I specifically identified to the Court the difficulty of the ensuing

position: I could not immediately withdraw, but had not been appointed, cannot be paid, and had not been found competent to handle the litigation, specifically as to discovery matters. However, as I reminded the Court, the State had in its opposition to my appointment promised immediately to engage in discovery at a degree sufficient, in its view, to overwhelm the resources of a solo practitioner like myself.

In view of the Court's decision denying my appointment, on Monday, January 7th I filed my Notice of Intent to Withdraw as counsel.... On January 8th, I received a letter from the state demanding my response to various discovery inquiries. I sent the attached email detailing the professional predicament resulting from the State's positions, and asked the State to proffer the professional courtesy of declining to take actions in the matter that would require my response prior to January 18th, or until Mr. Eyman successfully procured replacement counsel who appeared. I have received no specific response to that email, despite that it also asked the State to specify the financial and injunctive sanctions to which Mr. Eyman could agree in order to immediately resolve the dispute and eliminate the need for any further discovery. Instead, I received a copy of a discovery motion to you that requires a response prior to January 17th, and a hearing on January 17th.

Notably, in addition to the letter requesting responses to discovery matters, I received copies of 15 deposition subpoenas. The State has set three depositions for 1/23, two for 1/24, two for 1/28, two for 1/29, and two for 1/31, fulfilling the promise the State made to the bankruptcy court that it would ensure that no solo practitioner could possible represent Mr. Eyman in *State v. Eyman*. (I did not receive any prior correspondence on discovery matters, including any inquiry regarding my schedule or availability for attending depositions, or my ability to attend two or three depositions in a single day. I have no idea why the state needs to take three depositions on a single day in a case set for trial 11 months from now, nor do I understand why the state needs to take these depositions at all, given the scope of the claims in the case.) I also received copies of seven subpoenas duces tecum to third parties.

In short, in a flurry of filings in just two days, the State has amply fulfilled its promise that it would take steps to ensure that no solo practitioner can respond to discovery in this matter. I remain sufficiently new to the matter that I do not comprehend either the time pressure or relevance and proportionality under CR 26 that requires that 15 depositions be set for the case, nor that multiple depositions be taken on five different days without even a single attempt to correspond with counsel. (The State made no effort to inquire about an extension of deadlines consistent with their expansive view of CR 26 relevance and the far-off trial date.) But the fact remains: The State informed the bankruptcy court that it intended to make it impossible for me to represent Mr. Eyman; it convinced the Bankruptcy Court that it could do so and would do so. It has now done so. In response, I have noted my withdrawal. Unsatisfied with its success, the State has proceeded, over my request for brief delay, with motion practice that compels a response which I cannot provide consistent with its actions and my professional responsibilities.

I simply cannot respond to this Motion. I have not been appointed as counsel, because the State opposed it. The State has successfully taken the position that I am specifically not

> competent to respond to discovery in this matter. In light of my non-appointment, I may not even be allowed under Federal bankruptcy law to respond. But even if I am allowed to do so, if I respond and do not prevail before you, in light of a federal court finding that I have not demonstrated my competence in discovery issues to a degree sufficient to merit appointment, then what? If I respond and prevail, the State has successfully ensured that it is illegal for me to be compensated, because compensation requires my appointment, which it opposed. Counsel to the State are well aware of this issue, having created the problem by their pleadings, and because I specifically alerted them to it at oral argument on the motion for my appointment and again in my email requesting they extend the professional courtesy of a brief delay until Mr. Eyman either has counsel which the State considers competent, or proceeds pro se. Despite having taken the very actions that created the predicament, they have proceeded to file a motion over my request for a courtesy pause and while knowing that it is impossible for me to respond, yet under rules that mandate response.
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> State law requires notice before withdrawal. As the State knows, I remain counsel of record during the ten day period between the day I filed my Notice of Intent to Withdraw on January 7th (the Monday following the Friday hearing where my appointment was denied) and January 17th (the day the State set hearing for this discovery motion). The State, despite my specific request for the professional courtesy to delay discovery motions for a few days in a case with a trial date over 11 months away, instead filed a motion that demands a response from Mr. Eyman in that specific ten day window, with obvious potential negative repercussions if he does not respond. But while state law requires that I remain counsel of record, res judicata in *In re Eyman* states that I have not demonstrated competence to handle in discovery in *State v. Eyman*, and federal law precludes me being paid for any work undertaken. There is no legitimate reason to note this hearing, or require a response to this motion, in the next eight days. (I am also aware of no reason the State needs to take 15 depositions in 15 calendar days, with five days in that span having more than one deposition. There must be other alternatives which the State declined to explore.)
>
> I appreciate you extending deadlines for any response to the State by Mr. Eyman until such time as he is represented either by himself or by counsel whose actions are not completely constrained, as mine are, by the professional conflicts engendered by the State's actions in these matters.

Exhibit 1.

Judge Dixon, please note the resulting absurdity of my situation: one of the most talented attorneys in Washington was deemed "not competent." And that results in me representing myself, a person dramatically less competent than the experienced attorney the State opposed. If a University of Chicago trained attorney isn't competent to represent me, how can I possibly be?

So I'm not represented, I am without counsel, because of the actions of the Attorney General, the very office that is prosecuting me. Consequently, my interests have been severely compromised and I urge that the Court delay discovery until I find new counsel who is approved to represent me by the bankruptcy court.

THE COURT SHOULD DENY THE STATE'S MOTION TO AMEND BECAUSE IT IS SIMPLY AN ABUSIVE LITIGATION TACTIC TO FURTHER AN UNPRECEDENTED LEGAL THEORY

The stated and express purpose of the Attorney General's lawsuit is to impose on me an unaffordable financial penalty (I certainly don't have $2.1 million) and an unprecedented lifetime ban on doing initiatives in Washington state. Here's an excerpt from the Seattle PI: Ferguson is also pursuing the "nuclear option" against Eyman … The AG will ask the court to permanently bar Eyman from participating in or directing financial transactions for any political committees. … If the "nuclear option" succeeds, "Eyman will have to find something else to do with this life," said a critic. A true and correct copy of that March 31, 2017 article is attached hereto as Exhibit 2. Paragraph 6.4 of the proposed Amended Complaint confirms that a permanent ban from politics is being sought.

The AG has scheduled seven depositions over five days next week in three different geographic locations in Washington state. And then there's three *in Virginia* the following Monday. Then back to Washington *two days* later for depositions in Spokane. And it goes on from there, always with the option to add more later. *See* Exhibit 3 (email showing the State's deposition schedule).

As you know, the trial was going to be in November of last year but because of the AG's success at extending discovery an extra three months, the trial date is now scheduled for January of 2020. The trial is 11 months from now. There is clearly no hardship to the State if there is a

reasonable delay, especially in light of their unexpected success at blocking the attorney I was counting on to represent me up until last Friday. My interests are clearly in severe jeopardy as Mr. Ard states in his email.

There are not many attorneys who are experienced in the Fair Campaign Practices Act. And there is a voluminous amount of material to review and understand before a competent attorney would be able to intelligently respond to all the State's demands, including the depositions. Again, when the State was before the bankruptcy judge on January 4, they testified they were pursuing 35 third-party depositions. Shouldn't the State be expected or required to work with (or at least communicate with) my attorney (or me if I'm pro se) to schedule them over a period of time where attendance is actually feasible?

After the AG successfully blocked me from having legal representation, I instructed Mr. Ard to ask the State for a settlement demand. Attached hereto as Exhibit 4 is a true and correct copy of the email from Mr. Ard to Linda Dalton on January 8, 2019. The following is the most significant:

> Mr. Eyman also asks that the State forward a settlement demand identifying the financial and injunctive terms under which the State would resolve and finally dismiss both pending proceedings as to him … He would prefer that such a demand be made promptly, in his hope that the matters can be resolved on the State's terms prior to January 17th.

Exhibit 4.

Judge Dixon, they did not respond. The State was explicitly asked: what do you want Tim Eyman to agree to in order to end this? Their response? Nothing. In other words, the State isn't interested in resolution; it only wants to continue to grind on me.

This WeTheGoverned article documents how differently this AG deals with his political adversaries versus his political allies. Attached hereto as Exhibit 5 is a true and correct copy of the WeTheGoverned.com article. The following is the most significant:

> **If you find yourself in legal hot water with the AG, it is very helpful if you are a Democrat and a donor to Bob Ferguson's election campaign.** There are obviously two applications of the rule of law in Washington State. The first is the "we're all friends here" softball, kid-glove, pattycake style which the AG repeatedly uses with political allies and friends. The other is the scorched earth, no mercy, "we will never settle," rapidly personal destruction game which Bob Ferguson (and his 600 paid attorneys) only and exclusively unleash on political "enemies."
>
> **Ferguson steps on the scales of justice frequently.** It pays to be political friends with Ferguson because the strict rule of law will not be applied to you. **As a political ally it appears you can convince Ferguson to use the weight of the State to crush your political enemies as an added bonus.** It is troubling to realize how openly political insiders can violate the law and get away with little more than a wrist slap in Washington State. This would be problematic enough by itself, and if everyone got wrist slaps we couldn't say much. **However, it is far more disturbing to realize that the rule of law is applied radically different based on the political affiliation of the target violator.** Insider political kid glove treatment is not new in Olympia. However, when contrasted with the radical and obsessive destruction of Bob Ferguson's political enemies abusing his position as AG, **we are entering an era when the application of the rule of law becomes so arbitrary and capricious as to be unrecognizable as the rule of law any longer.** This is not okay or healthy for our community or our future.

Exhibit 5.

So for now, I am pro se, I am representing myself. To understand why I believe you should deny their motion, you need to know more about the underlying case.

On March 31, 2017, after the Attorney General held a splashy press conference announcing his lawsuit against me, my attorney at the time, Mark Lamb, responded. A true and correct copy of his statement is attached hereto as Exhibit 6. The following is the most significant:

> For all the heated rhetoric early today, this dispute is simple: **whether two transactions from 5 years ago needed to be included on 2012's campaign reports. The Attorney General believes they should, we do not.** From the beginning, Mr. Eyman has made clear he did nothing wrong and the money he received 5 years ago was lawfully earned for the services he provided. … The more I have examined the State's claims in this matter the less impressed I am. Mr. Eyman has the same First Amendment rights as the Attorney General himself. It is chilling that the stated purpose of this action is to permanently bar him from participating in the political process in this State.

Exhibit 6. (emphasis added). The motion to amend clearly seeks to expand the lawsuit beyond these two transactions.

As indicated in Mr. Lamb's statement, the original complaint concerned an alleged violation of the Fair Campaign Practices Act having to do with a failure to report in 2012. It is the treasurer who does the reporting. Back then, our political action committees employed and paid Stan Long to be our treasurer and he was a professional CPA and former IRS investigator. He had been our treasurer since 2003 and he was meticulous. Stan didn't put them on the reports because he didn't believe they needed to be.

And even though Stan Long was the treasurer of our PACs in 2012, not only was he not named in the lawsuit, the government never even tried to contact him or interview him. Why? Because Stan Long isn't the one sponsoring the tax initiatives that voters keep passing. I'm doing that.

Here are the transactions the AG thinks Stan Long should have reported and why they weren't: In 2012, Citizen Solutions, a professional signature gathering company, contracted with my company, an LLC, to get them future clients. It was a standard consulting agreement. The AG has a copy of the invoice, an email exchange memorializing the agreement, and a copy of my 2012 bank statements and personal and business tax returns (so they know I declared the payment as income and paid the appropriate taxes on it, and they know Citizen Solutions reported it as a standard business expense).

Nonetheless, the Attorney General's unprecedented legal theory is when my LLC was paid with Citizen Solutions' money, it wasn't really their money – it was campaign money, therefore, it needed to be reported. But it wasn't campaign money. It stopped being campaign money when they received it. At that point, it was theirs, and they could spend it any way they wanted. And they opted to spend some of it to contract with my LLC to help them get future clients (which happened, they received future clients from this agreement). So contrary to the State's claims and the AG's innuendo, there was never any personal use of campaign funds, no embezzlement of campaign funds, no misuse of campaign funds, no redirection of campaign funds. Because they weren't campaign funds, the funds belonged to Citizen Solutions.

What did my LLC do with the consulting payment? The AG knows exactly where it went because they've received my bank statements and personal and business tax returns. With the money my LLC was paid, almost one-third went to pay taxes on it, a portion was used to pay down the first mortgage on our home, a portion was used to help a relative pay off credit card debt, and a portion was loaned to an organization that does initiatives in other states that I was counting on to help me secure future clients for Citizen Solutions (to fulfill the agreement).

But the AG's bizarre theory is that all those transactions by my LLC (the payment of taxes to the IRS and Department of Revenue, the paying down of our mortgage, helping a relative pay down credit card debt, and the loans) were paid with campaign funds. They weren't. Those funds belonged to my LLC. Even more absurd, the AG is saying that when that group made its subsequent loan repayments to my LLC, their loan repayments were made with campaign funds. No, those weren't campaign funds. Those funds belonged to the group that owed money to my LLC.

There is no legal precedent for the AG's goofy legal theories – but that's not the point. Those theories allow Ferguson to grind on me and make it sound like I stole campaign funds, embezzled campaign funds, redirected campaign funds, or misused campaign funds. I absolutely did not.

The only money I earn and receive comes from people who choose to give it to me. For those people who don't like me and don't want me to get their money, don't give it to me. I don't need to take money from people who don't want to give it to me. There are plenty of people who really like me, who want to help me, and who want to enter into voluntary, mutually beneficial agreements with me.

This litigation is about our PACs' treasurer not reporting transactions. And again, the reason he didn't report them was because none of them were campaign funds.

For six years, I've been subjected to an absolute siege of litigation by the State that has been crushingly expensive. It reached nearly $800,000 in costs and with 14 months to go before trial, I

finally reached the breaking point and filed for bankruptcy on November 28. I filed because I was insolvent – my liabilities far exceeded my assets. When the US Trustee asked me, in front of the eight attorneys the AG sent to watch the hearing, why I filed bankruptcy, I broke down. I managed to get across that the only reason was the AG's legal assault.

So now, in this motion, the State is asking to massively expand their investigation. Why? Because they want to target and harass my relatives and friends who have been helping me survive the State's bullying the past six years. In this motion, the AG seeks to advance a brand new, untested, unprecedented legal theory: that I, Tim Eyman personally, am a political action committee. Because I am a full-time political activist, that means that any money I receive personally and any money I spend personally needs to be reported on monthly campaign reports. Under this theory, my family buying groceries is reportable because it benefits me and indirectly benefits the initiatives I work on. It's absurd.

The original complaint was filed in May of 2012. I did my best to answer their questions. But by late 2013, it became apparent to me that I had to lawyer up and get ready because the government was coming after me. And I knew it was going to be expensive. I knew it because I've been through it before.

From 1997 through 1999, I worked really hard sponsoring, qualifying, and helping pass very popular initiatives. And I did it without any compensation. At this point, I wanted to continue but couldn't unless compensated. So in 2000, I registered an LLC with the state. And in 2000 and 2001, I sponsored, worked on, and qualified three initiatives and voters passed two of them. The three initiative campaigns paid my LLC for my political work and every one of those payments was reported on the PACs' campaign reports (and every step of the way, I communicated with and received advice from my longtime accountant who helped me make sure that every single dollar of that earned income was included on my personal and business tax returns and all local,

state, and federal taxes, both personal and business, were paid for that earned income). But foolishly, whenever I was asked by the media and others if I was being compensated for my political efforts, I said no. If I had simply said "You bet I am, I'm working my butt off, I'm getting amazing results for the taxpayers, my supporters and voters love the initiatives I'm sponsoring, and I've got a family to support," then it wouldn't have been a problem. But I wasn't upfront about it and it was a big mistake and I regret it very much. When the Seattle PI wrote a big story about it, I foolishly denied it again. But a few days later, I called the Associated Press and came clean.

In the following months, the Public Disclosure Commission looked into it. They then referred it to Attorney General Gregoire and they spent additional months doing their own investigation. All the PACs campaign reports clearly showed all the payments to my LLC but nonetheless my repeated denials made it where I had gone against "the spirit of the law." After spending $70,000 of my own money on lawyers, I told them to ask the AG for a settlement offer. The AG's settlement offer was this: one, I had to agree to never serve as a treasurer for a political action committee for the rest of my life (my attorneys said it was totally unprecedented and really extreme, given that I was only 35 years old), and two, they wanted $55,000 (which, back then, was radically higher than others had to pay). I agreed to the lifetime ban on being a treasurer and I agreed to pay $55,000 using my own money (no campaign funds were used – in fact, I paid the fine the AG imposed on our PAC).

As I wrote earlier, starting in 2003 and continuing through 2013, we hired and paid Stan Long, a professional CPA and former IRS investigator, to be our PACs' treasurer.

After the settlement, I talked with my longtime, well-respected accountant Dave Hawthorne, and asked him if it was OK for me to ask friends and supporters to help me with the costs of the litigation. He said yes, it's perfectly fine for people to provide financial gifts. There are limits on

how much can be gifted but anyone can give you money and there's nothing wrong with it. He said they aren't political donations or compensation – they're gifts. Thankfully, there were lots of friends who were willing to help. I was upfront with them and made it clear, as instructed, that they were under no obligation to help, but I would be very grateful if they would. Every step of the way, I relied on my accountant's advice on how to handle it.

The response was overwhelming. In 2003 and 2004, I received enough in financial gifts from friends and supporters to cover the legal costs, the judgement, and other costs like mailing out fundraising letters. There was a complaint filed about it. The Public Disclosure Commission did a very thorough investigation, reviewed the letters I mailed to friends and supporters asking for help, and examined how I had spent the gifts. The PDC did not find anything wrong with what I had done and dismissed the complaint. As a result, it was clear to me that my accountant's advice that I had relied on had been correct.

In 2003 and 2004, I was really struggling financially. But from 2005 through 2009, Mike Dunmire, a wealthy benefactor and a very good friend, really stepped up and helped tremendously. Not only was he making substantial political donations to our PACs which helped our initiatives qualify (all his political donations were included on our PACs campaign reports), but he also generously provided each year a $10,000 gift to each of my three kids and me and my wife. It was a godsend. He loved my family and we loved him. I talked about that with my accountant, because not only was he preparing my yearly tax returns, his accounting firm had been hired to prepare our PACs monthly campaign reports. He said Mike's gifts were fine, were below the threshold, and didn't need to be reported on our campaign reports or tax returns because they were gifts to me and my family.

Now, when it comes to the initiative I was sponsoring in 2009, Mike said the Great Recession had hit his personal finances hard so he wasn't able to provide as much in political

contributions. So, to fill in the gap, I borrowed $250,000 from an unsecured line of credit at our bank and loaned it to the initiative campaign (which was reported on our PACs campaign reports). I did it because I really supported the initiative and thought the voters were eager to pass it. It was risky but thanks to that loan from me and political donations from Mike and many other supporters, the initiative did qualify. But after the vote in November, I was stuck with a $250,000 debt. It was a scary time. But a few months later, Mike hit me with an extraordinary surprise: he paid off the loan (he paid the bank directly and that was reported on our PACs campaign reports). But he also made it very clear that he was never going to bail me out again. He was an amazing friend to me and my family, but also to every taxpayer in Washington.

Now it was 2010. And it was a time when the Legislature was threatening to suspend the 2/3 requirement to raise taxes, an initiative that I had sponsored and voters passed in 2007. I approached members of the business community and told them that Mike Dunmire was no longer able to help and if they wanted to bring back the 2/3 requirement, they'd have to get on board and donate.

They said they wanted to wait until after the session ended to decide whether or not they were going to help. This indecision really put the initiative's signature drive in jeopardy because if we waited until then, it'd be too expensive to qualify. That's because the cost of gathering signatures increases the later it starts (more time means less cost – less time means more cost).

So I jumped off the cliff again, and began borrowing from the bank and making loans to the "bring back the 2/3" initiative to get the signature drive rolling and keep the overall cost down. This was a huge risk because there was no guarantee the business community, that had never helped before, would step up. By the time the session was over, the signature drive train was moving down the tracks but I was again $250,000 in debt (my loan payments were reported on our PACs campaign reports). At that point, some members of the business community finally

donated but just barely enough to qualify. We made it. But we wouldn't have if we had waited until after the session – my loan allowed the signature drive to start months earlier, making the overall cost affordable and the effort successful. I had an email exchange with Don Brunell, the head of the Association of Washington Business, who recognized that fact because he gushed about my sacrifice and promised that his organization would help pay off the loan – "After what you did Tim, it's the least we can do." By September, AWB's PAC had raised a little over $250,000 so I contacted them about using that to pay off the loan. No, was the response I got: "Our members wouldn't have donated if they thought it'd go to you." They reneged. There was no formal agreement so I was stuck.

So I did what I had been doing for over a decade: asking people and organizations to make political donations to my initiative campaigns to qualify them for the ballot and pay off that huge debt I had been stuck with. And I asked people and organizations to make political donations to the PAC we had set up to compensate us for our political work. And I asked friends for gifts to help me out during that rough time (because I had been stuck with $250,000 debt). By the time 2012 rolled around, I was sponsoring another 2/3 initiative. And by the middle of 2012, I had managed to raise enough in political donations for our PAC to qualify the new 2/3 initiative and pay off the last of the loan. I had survived another financial challenge thanks to a lot of amazing friends who chose to help me because they didn't think it was fair that I had been left holding the bag in 2010.

And as I always have, I kept my accountant and treasurer informed throughout and consistently solicited and relied on their advice – political donations were reported on campaign reports and gifts from friends were not.

Regarding the 2012 complaint, I hired legal counsel to represent me. And by late 2013, I could tell that the State was gunning for me and it was going to be brutally expensive for me

personally. The costs for lawyers and potential fines were going to have to come out of my own pocket and it was going to cost me way more than I'd ever have. So I called my accountant and asked him again about gifts. He reiterated the requirements and limitations on gifts. He said it was my money and I could use it for anything I wanted. So, to prepare for the huge costs that I saw coming, I asked friends to help me. And it turns out that after so many years of putting myself at tremendous financial risk while benefitting the taxpayers, there were lots of people who liked me and admired me and wanted to help me. I sent emails and letters. I made phone calls. I had meetings with people at their homes and businesses. I got a great response.

Sometime in mid-2014, I worked with my accountant to draft and send my friends a follow up letter making it clear that it was my understanding their support was intended as a gift and not compensation for my political work. And it specifically gave them the option: if they had a different understanding or intent, they should contact me immediately and I'd give them their money back. Not a single person did. So, following the advice I was provided by my longtime accountant, someone who for decades had prepared my tax returns and someone who was hired by our PACs' to handle the monthly campaign reports, I continued asking friends to help me. And my friends responded.

I asked them to provide political donations to our PAC for my initiatives, I asked them to provide political donations to our PAC for compensation, I asked friends to contract with my LLC to do work for them, I asked friends to donate to the group that owed my LLC money, and I asked friends to provide gifts for me and my family. And when it came to my legal defense fund, I asked friends to provide gifts so I could pay for the huge legal expenses, bankruptcy costs, and other government charges spawned by the AG's financial assault on me and my family. On the day I filed for bankruptcy, all gifts to my legal defense fund were exhausted paying for my attorneys – those account balances were literally $0.

The Court should ask the AG to brief the precedent for their claim that it is even legally possible that I, Tim Eyman, could be a walking, talking political action committee before it engages in the discovery onslaught?

The AG's novel legal theory in the proposed amended complaint is that every single financial transaction in my life since 2012 needed to be reported. That every dollar I received from anyone for any reason was a political donation. And that every dollar I spent for any reason was a political expenditure. As a normal person who's a member of a five-person family, our personal bank accounts encompass probably tens of thousands of individual personal transactions since 2012. From the motion: "These additional factual allegations and claims simply add claims from subsequent years and fall within the statute of limitation. As such, they provide no surprise and create no confusion moving forward."

To the contrary, I find this very surprising and confusing. The AG is saying I personally am a political action committee? That every transaction in my life is a political transaction? And I knew that and purposely concealed that? For the record, I did not know that me being a full-time political activist meant I was a walking, talking political action committee. I never imagined that every expenditure anyone in my family made was a reportable expenditure.

And now, the latest twist: in bankruptcy court, the State argued Joel Ard was not competent to represent me. So he withdrew. Now the State opposes his withdrawal and demands that he continue to represent me during discovery. But he can't. Because the State successfully prevailed in bankruptcy court. A true and correct copy of Mr. Ard's response is attached hereto as Exhibit 7. The following is the most significant:

> The State's Objection: Incompetent Counsel Must Represent Mr. Eyman! … Today, I no longer represent Mr. Eyman. Yet the State considers that I ought to be compelled by this Court to remain counsel of record, for the very purposes of managing the discovery practice for which it considers me incompetent… The State's objection to my withdrawal lacks any merit, as it knows. … it was filed because it could be filed, and because I

> specifically requested it not be filed. It was filed to deter any other counsel from representing Mr. Eyman. **What sane lawyer would notice an appearance here, knowing that payment for services rendered requires approval of the bankruptcy court, an approval which is subject to the State's objection?** And when, after appearing in the middle of the storm of subpoenas, that attorney secures the next hearing date on the bankruptcy court's next calendar for appointment, will the State object? And prevail? And then what? The attorney cannot exit state court except on ten days' notice, and absent objection from the State – objection which will be forthcoming, as it shows. **No attorney will volunteer to appear for a client knowing that the State will exert every effort to ensure that counsel who appear in this court will work as long as possible, and as long as the Court grants the State, for no compensation.**

Exhibit 7 (Emphasis added).

The State's motion to amend should be denied and a stay should be granted on discovery until the bankruptcy court authorizes an attorney to represent me (an attorney who can make it through the State's inevitable gauntlet of objections and discovery demands).

CONCLUSION

The Attorney General is persecuting me, my wife, and my friends. He's successfully bullied my attorney from representing me, leaving me without counsel and substantially compromised. I've been bankrupted. My legal defense funds literally hit $0 on the day I filed for bankruptcy. The State didn't even respond to my attorney's request for a settlement demand. Now they demand he represent me during discovery despite arguing, successfully, that he's incompetent to handle discovery and despite the fact that he can't represent me because he's withdrawn after the bankruptcy court refused to name him. I am asking the Court to recognize what's going on in this case and to act accordingly and justly. Please deny the State's motion for leave to amend and delay discovery until I can obtain replacement counsel who is authorized by the bankruptcy court. The State's intentional effort to block me from having legal representation has resulted in my interests being severely prejudiced. I ask you to not let them get away with it.

Respectfully submitted this 15th day of January, 2019 and I declare under penalty of perjury that the foregoing is true and correct, executed this 15th day of January 2019, in Bellevue, Washington.

By 

Tim Eyman, pro se
500 106th Ave NE #709
Bellevue, WA, 98004
425-590-9363
tim_eyman@comcast.net

Exhibit 1

From: Joel Ard
Sent: Thursday, January 10, 2019 07:29
To: 'AOL' <taborgr@aol.com>
Cc: Buswell, Jessica (ATG) <JessicaB5@atg.wa.gov>; Dalton, Linda A. (ATG) <LindaD@atg.wa.gov>; Sipe, Todd (ATG) <ToddS4@atg.wa.gov>; Newman, Eric (ATG) <ericn@atg.wa.gov>; Crisalli, Paul (ATG) <PaulC1@atg.wa.gov>; Boggess, Lisa (ATG) <LisaB5@atg.wa.gov>; Mark Lamb <mark@northcreeklaw.com>
Subject: Request For No Action On State's Motion No. 20

Dear Judge Tabor:

I write to request that you take no immediate action on the discovery motion filed by the State yesterday, and require no response from Mr. Eyman until after January 17th. Fundamentally, the State's motion puts both Mr. Eyman and me, professionally, in an impossible position, and it does so knowingly and intentionally. The State filed the motion as its sole response to my specific request that it delay any such motion until either Mr. Eyman can find replacement counsel or he proceeds pro se on January 18th.

To explain the background, and why it is impossible for me to respond to the motion:

As you know, Mr. Eyman filed for bankruptcy protection in late November. Pursuant to federal bankruptcy law, no attorney may represent Mr. Eyman – or, I think more accurately, no attorney may represent his bankruptcy estate which is now the entity liable for any eventual fine in this case – without leave of the bankruptcy court. Because leave of court cannot be sought on the day of filing, practitioners generally continue work and seek appointment *nunc pro tunc* back to the day of filing. Together with bankruptcy counsel, I continued work in December and sought appointment as special counsel, specifically for this case. To my surprise, the State opposed my appointment, on the grounds that I am not, in the State's view, competent to handle discovery matters in *State v. Eyman.* At the hearing on that motion, held Friday, January 4th, the State prevailed. I was not appointed. In other words, the State prevailed in arguing to the Bankruptcy Court that I failed to demonstrate that I am competent to handle discovery matters in *State v. Eyman.* At that hearing, I specifically identified to the Court the difficulty of the ensuing position: I could not immediately withdraw, but had not been appointed, cannot be paid, and had not been found competent to handle the litigation, specifically as to discovery matters. However, as I reminded the Court, the State had in its opposition to my appointment promised immediately to engage in discovery at a degree sufficient, in its view, to overwhelm the resources of a solo practitioner like myself.

In view of the Court's decision denying my appointment, on Monday, January 7th I filed my Notice of Intent to Withdraw as counsel. Absent opposition from the State, it becomes effective on January 17th. On January 8th, I received a letter from the state demanding my response to various discovery inquiries. I sent the attached email detailing the professional predicament resulting from the State's positions, and asked the State to proffer the professional courtesy of declining to take actions in the matter that would require my response prior to January 18th, or until Mr. Eyman successfully procured replacement counsel who appeared. **I have received no specific response to that email, despite that it also asked the State to specify the financial and injunctive sanctions to which Mr. Eyman could agree in order to immediately resolve the dispute and eliminate the need for any further discovery.** Instead, I received a copy of a discovery motion to you that requires a response prior to January 17th, and a hearing on January 17th.

Notably, in addition to the letter requesting responses to discovery matters, I received copies of 15 deposition subpoenas. The State has set three depositions for 1/23, two for 1/24, two for 1/28, two for 1/29, and two for 1/31, fulfilling the promise the State made to the bankruptcy court that it would ensure that no solo practitioner could possible represent Mr. Eyman in *State v. Eyman.* (I did not receive any prior correspondence on discovery matters, including any inquiry regarding my schedule or availability for attending depositions, or my ability to attend two or three depositions in a single day. I have no idea why the state needs to take three depositions on a single day in a case set for trial 11 months from now, nor do I understand why the state needs to take these depositions at all, given the scope of the claims in the case.) I also received copies of seven subpoenas duces tecum to third parties.

In short, in a flurry of filings in just two days, the State has amply fulfilled its promise that it would take steps to ensure that no solo practitioner can respond to discovery in this matter. I remain sufficiently new to the matter that I do not comprehend either the time pressure or relevance and proportionality under CR 26 that requires that 15 depositions be set for the case, nor that multiple depositions be taken on five different days without even a single attempt to correspond with counsel. (The State made no effort to inquire about an extension of deadlines consistent with their expansive view of CR 26 relevance and the far-off trial date.) But the fact remains: The State informed the bankruptcy court that it intended to make it impossible for me to represent Mr. Eyman; it convinced the Bankruptcy Court that it could do so and would do so. It has now done so. In response, I have noted my withdrawal. Unsatisfied with its success, the State has proceeded, over my request for brief delay, with motion practice that compels a response which I cannot provide consistent with its actions and my professional responsibilities.

I simply cannot respond to this Motion. I have not been appointed as counsel, because the State opposed it. The State has successfully taken the position that I am specifically not competent to respond to discovery in this matter. In light of my non-appointment, I may not even be allowed under Federal bankruptcy law to respond. But even if I am allowed to do so, if I respond and do not prevail before you, in light of a federal court finding that I have not demonstrated my competence in discovery issues to a degree sufficient to merit appointment, then what? If I respond and prevail, the State has successfully ensured that it is illegal for me to be compensated, because compensation requires my appointment, which it opposed. Counsel to the State are well aware of this issue, having created the problem by their pleadings, and because I specifically alerted them to it at oral argument on the motion for my appointment and again in my email requesting they extend the professional courtesy of a brief delay until Mr. Eyman either has counsel which the State considers competent, or proceeds pro se. Despite having taken the very actions that created the predicament, they have proceeded to file a motion over my request for a courtesy pause and while knowing that it is impossible for me to respond, yet under rules that mandate response.

State law requires notice before withdrawal. As the State knows, I remain counsel of record during the ten day period between the day I filed my Notice of Intent to Withdraw on January 7th (the Monday following the Friday hearing where my appointment was denied) and January 17th (the day the State set hearing for this discovery motion). The State, despite my specific request for the professional courtesy to delay discovery motions for a few days in a case with a trial date over 11 months away, instead filed a motion that demands a response from Mr. Eyman in that specific ten day window, with obvious potential negative repercussions if he does not respond. But while state law requires that I remain counsel of record, res judicata in *In re Eyman* states that I have not demonstrated competence to handle in discovery in *State v. Eyman*, and federal law precludes me

being paid for any work undertaken. There is no legitimate reason to note this hearing, or require a response to this motion, in the next eight days. (I am also aware of no reason the State needs to take 15 depositions in 15 calendar days, with five days in that span having more than one deposition. There must be other alternatives which the State declined to explore.)

Finally, because the State purports to require a response from both Mr. Eyman and Tim Eyman Watchdog For Taxpayers LLC, it should also have notified you that the LLC no longer exists. After paying its final obligation to you, it was dissolved on December 31, 2018 in accordance with state law. No entity exists, no lawyer represents that non-existent entity, and no person gives direction to the non-existent entity to respond to the State's motion. The documents filed with Thurston County Superior Court, and served on the attorneys for the State, are also attached to this email.

I appreciate you extending deadlines for any response to the State by Mr. Eyman until such time as he is represented either by himself or by counsel whose actions are not completely constrained, as mine are, by the professional conflicts engendered by the State's actions in these matters.

Yours, Joel B. Ard

-END-

Exhibit 2

AG Ferguson hits initiative promoter Eyman with $2.1 million campaign violations suit

By Joel Connelly, SeattlePI
Updated 1:56 pm PDT, Friday, March 31, 2017

Attorney General Bob Ferguson followed the money, and it led to the filing Friday of a $2.1 million lawsuit against initiative promoter Tim Eyman for personal use of campaign contributions and multiple violations of state campaign disclosure laws.

"We have a strong case this was intentional," Ferguson told reporters. And state Public Disclosure Commission chair, retired judge Anne Levinson, added: "This was intentional. This was a pattern. It is crystal clear. This was not an accident."

Citizen Solutions, a for-profit signature gathering firm that diverted money to Eyman, could face penalties up to $924,555.

Ferguson is also pursuing a "nuclear option" against Eyman, who has a long track record of campaign finance disclosure violations.

The AG will ask the court to permanently bar Eyman from participating in or directing financial transactions for any political committees. A 2002 accord has already permanently barred Eyman from serving as treasurer for political committees.

If the "nuclear option" succeeds, "Eyman will have to find something else to do with his life," said Andrew Villeneuver, founder of the Northwest Progressive Institute, for 15 years a trenchant Eyman critic.

Eyman, a former watch salesman from Mukilteo, has been sponsoring, promoting and collecting money for initiatives since his 1999 $30 car tab measure. He has succeeded on tax related measures, but failed in attacks particularly on Sound Transit. .

Mark Lamb, Eyman's attorney, had a very different take on the financial ban sought by Attorney General Ferguson.

"Mr. Eyman has the same First Amendment rights as the Attorney General himself," said Lamb. "It is chilling that the stated purpose of this action is to permanently bar him from participating in the political process in this state."

Ferguson depicted a web of deception, of the public as well as contributors, in Eyman's transactions.

"Taking kickbacks from contractors, using campaign funds for personal expenses, redirecting donations made for one initiative to a different initiative -- it's hard to imagine what more Mr. Eyman could have done to show his contempt for our campaign disclosure laws," said Ferguson.

In response, Lamb argued: "From the beginning, Mr. Eyman has made clear he did nothing wrong and the money he received was lawfully earned for the services he provided." Later, he added: "Cases are litigated in court, not press conferences."

Eyman was interviewed by the Attorney General's office on Monday.

The AG acted after receiving a 76-page Public Disclosure Commission investigation, completed in September of 2015.

It detailed a maze of 2012 transactions involving Eyman political committees, the personal Eyman committee, and the signature gathering firm he has long employed.

A key piece of evidence is a $308,185 payment from Citizen Solutions to Eyman, delivered by wire transfer on July 11, 2012.

An Eyman-sponsored political committee, Voters Want More Choices, had already paid out $623,325 to Citizens Solutions for signature gathering. It was collecting names for an initiative requiring "supermajorities" in the Legislature to raise new revenue.

In turn, however, Citizen Solutions paid off the $308,165 to Eyman's own for-profit group called Tim Eyman Watchdog for Taxpayers. The payment was never reported to the Public Disclosure Commission. Eyman did not tell Voters Want More Choices that he was receiving them money.

"No written agreement exists related to the payment," the AG's office said Friday. "However, a July 8 email exchange between Eyman and Agazarm (of Citizen Solutions) references the payment.

"Agazam wrote: "The immediate goal is to get you paid."

"That's concealment and that's against the law," Ferguson said Friday.

The money went to Eyman's personal use, including $100,000 which Eyman told the PDC went "to provide for my family."

Ferguson said Friday that the AG's office will try to find out how Eyman spent the $100,000.

The rest of the $308,165 went to support signature gathering for a second Eyman initiative, entirely apart from the tax-related initiative for which the donations had been received. The second measure -- I-517 -- would have "set penalties for interfering with signature gatherers or signers."

I-517 made the ballot, and was roundly rejected by voters.

Given evidence that the transfer of $308,165 was deliberately kept secret, the AG may well ask not only that Eyman reimburse the $308,185 -- but that the Mukilteo-based promoter also pay treble damages.

Ferguson has a track record on this. He hauled a powerful Washington, D.C., lobby, the Grocery Manufacturers Assn., into court for laundering money in a 2013 initiative campaign. The GMA concealed donors to the $23 million campaign that narrowly beat an initiative to require labeling of genetically modified foods.

By using the lobby's own internal memos, however, Ferguson established that the concealment was deliberate. A Thurston County court granted treble damages -- to the tune of $18 million. It was an historic laundry bill.

The AG's suit against Eyman, filed in Thurston County Superior Court, is a civil action. The state's campaign finance laws -- put in place by citizen initiatives -- are civil in scope.

Ferguson would not comment on ongoing criminal investigations, nor would he have anything to report. "I have been screened from any conversation on the criminal side," said the AG.

In short, the Attorney General is not trying to frog march Eyman into court -- at least not yet -- but his suit could well take Eyman to the cleaners.

Exhibit 3

From: Buswell, Jessica (ATG) <JessicaB5@ATG.WA.GOV>
Sent: Tuesday, January 8, 2019 16:43
To: Mark Lamb <mark@northcreeklaw.com>; Joel Ard <joel@ard.law>
Cc: Dalton, Linda A. (ATG) <LindaD@ATG.WA.GOV>; Sipe, Todd (ATG) <ToddS4@ATG.WA.GOV>; Newman, Eric (ATG) <ericn@ATG.WA.GOV>; Crisalli, Paul (ATG) <PaulC1@ATG.WA.GOV>; Boggess, Lisa (ATG) <LisaB5@ATG.WA.GOV>
Subject: State v. Eyman, et al.: Service of Subpoenas to Appear for Deposition

Dear Counsel:

Attached are subpoenas for depositions for the following:

1. 1/22/19 – 30(b)(6) Hawthorne & Co.
2. 1/23/19 – Clyde Holland
3. 1/23/19 – Kenneth Fisher
4. 1/23/19 – Edward Agazarm
5. 1/24/19 – Kemper Freeman Jr.
6. 1/24/19 – Bruce Nurse
7. 1/25/19 – Karen Eyman
8. 1/28/19 – Paul Jacob
9. 1/28/19 – Citizens in Charge
10. 1/29/19 – Citizens in Charge Foundation
11. 1/29/19 – Liberty Initiative Fund
12. 1/31/19 – Mike Fagan
13. 1/31/19 – Jack Fagan
14. 2/5/19 – Tim Eyman
15. 2/6/19 – Tim Eyman Watchdog for Taxpayers.

Please contact me with any issues with the attachments and **please confirm receipt.**

Sincerely,

Jessica Buswell

Legal Assistant
Office of the Attorney General
Campaign Finance Unit
P.O. Box 40100
Olympia, WA 98504
(360) 570-3403
jessicab5@atg.wa.gov

Exhibit 4

From: Joel Ard
Sent: Tuesday, January 8, 2019 16:40
To: Dalton, Linda A. (ATG) <LindaD@ATG.WA.GOV>; Sipe, Todd (ATG) <ToddS4@ATG.WA.GOV>; Newman, Eric (ATG) <ericn@ATG.WA.GOV>; Crisalli, Paul (ATG) <PaulC1@ATG.WA.GOV>; Boggess, Lisa (ATG) <LisaB5@ATG.WA.GOV>
Cc: 'Buswell, Jessica (ATG)' <JessicaB5@ATG.WA.GOV>
Subject: RE: State v. Eyman, et al.: Service of Correspondence Re Outstanding Issues - Eyman Defendants

Counsel,

I have noted my intent to withdraw, consistent with the state's successful opposition to my appointment as counsel to Mr. Eyman. Because of the State's successful objection, as you know, it is impermissible for me to be paid for any time expended on this matter, past or future. In light of the State's objection to my appointment, I presume it will not object to my withdrawal. I certainly hope to receive the professional courtesy of not having to spend unpaid time on a contested motion that affords the State the result it sought and received before the Bankruptcy Court.

As to the specific contents of this letter, according to the state's objection to my proposed appointment, my solo practice is not competent to handle the pending discovery matters the state intends to pursue, which plainly include every one of these issues. As such, Mr. Eyman is now soliciting replacement counsel. However, pursuant to the rules, I remain counsel of record in State v. Eyman until January 17th, 2019, and pursuant to federal bankruptcy law and related rules, I cannot be paid for my past work in the matter, my attendance at today's hearing, or for any work the State proposes to compel of me in the next 9 days. **In light of a trial date over eleven months away, I fail to see the time pressure** that compelled this demand be sent today, particularly in light of the State's successful objection on Friday and my notice of intent to withdraw filed yesterday. I therefore solicit the professional courtesy that the State not undertake any action in either matter until Friday, January 18th, 2019. If Mr. Eyman can identify any counsel willing to represent him prior to next Friday, that counsel will appear; otherwise he will proceed pro se.

Mr. Eyman also asks that the State forward a settlement demand identifying the financial and injunctive terms under which the State would resolve and finally dismiss both pending proceedings as to him (State v. Eyman and State v. Tougher To Raise Taxes). He would prefer that such a demand be made promptly, in his hope that the matters can be resolved on the State's terms prior to January 17th.

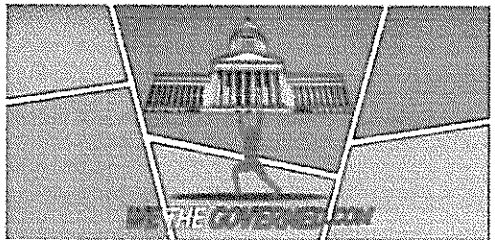
Yours, Joel Ard

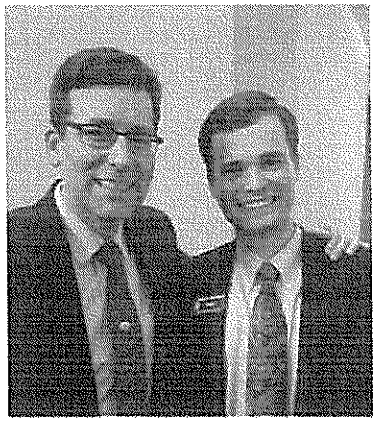
Exhibit 5

Washington State Government | Attorney General | Washington Counties | Spokane County

Spokane County Democrats settle AG lawsuit for $85,300 after kid glove treatment by Bob Ferguson

By Glen Morgan - December 26, 2018 1171 2



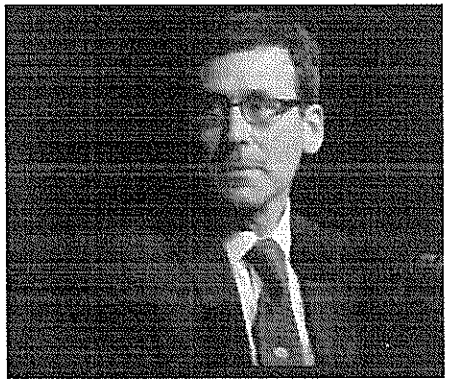


Former Spokane County Democratic Chair Andrew Biviano (right) and AG Bob Ferguson after AG starts "investigation" last year

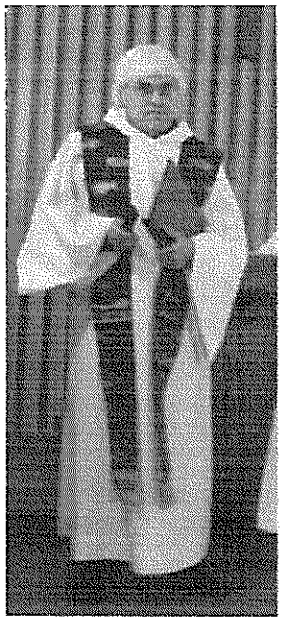
The Spokane County Democratic Party finally settled the campaign finance lawsuit filed against them by Washington State Attorney General Bob Ferguson just before Christmas. The settlement was obviously settled long before the final documents were completed, but in an effort to reduce the political visibility of the final outcome, the AG agreed to wait until the day before Christmas to release the press release (link here). **This is the 18th settlement out of 19 lawsuits filed by the AG's office for campaign finance violations based on complaints originally filed by this author.** The Democratic Party and the local legacy media want to blame this author for their troubles, but they have nobody to blame but themselves. (A complete list of these AG settlements is provided below with all relevant source links).

How did the Spokane County Democrats get here?

It is worth reviewing how the Spokane County Democratic Party got here in the first place. **Without question – the Spokane County Democrats were horrific with their bookkeeping and general accounting for many years.** They had been draining a dedicated fund (called the Drumbeater fund) which was originally dedicated to scholarships for kids in order to pay for epic parties (see article here and here). Along the way, they hired a former chair, pastor Jim Castrolang, to be their paid executive director (not common for either major political party at the county level). The theory at the time was his fundraising expertise would ensure the party did better financially. This theory failed in practice, but the Spokane County Democrats did increase their costs paying Pastor CastroLang an extra $24,000+.



Bob Ferguson speaks at the Spokane County Democrat Party's Tom Foley Dinner in 2017, while his office was "investigating" them before filing a "lawsuit"



As Spokane County Democrat Party Executive Director – Jim CastroLang was personally responsible for most the violations, but he only got a slap on the wrist for his behavior.

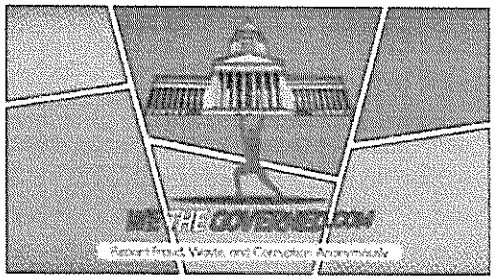
The Spokane County Democrats also had a Treasurer named Justin Galloway doing a poor job while he held that title. He quit the position in the summer of 2016. **Conveniently, CastroLang took over the Treasurer role and proceeded to completely botch the job**, while filing financial documents in Galloway's name. CastroLang also decided to hide the fact that the Spokane County Democrats were paying him a monthly salary and that some of the donations he was collecting were over the campaign finance limits and illegal.

After years of botching their financial reporting and violating the state's campaign finance laws without any consequences, this author filed a complaint with the Public Disclosure Commission March 16, 2017 (linked here). The recently elected (and since resigned) chair of the Spokane County Democrats at the time, Andrew Biviano, claimed this author's complaint was "frivolous" and without merit (see Biviano email dated March 24, 2017 linked here) In addition, this author filed a Citizens Action Notice, which is what forced the Attorney General's office to file a lawsuit May 12, 2017 (linked here).

In the end, the Spokane County Democrats admitted to the following violations and pretended other violations never happened (even though the PDC just sent this warning letter on December 20, 2018 to them for additional violations):

- **Failing to timely file disclosure reports detailing $104,190 in contributions and $110,554 expenditures**, including contributions made to political candidates.
- **Filing at least 180 disclosure reports to the state Public Disclosure Commission late**, and filing multiple reports more than a year late. They even failed to file some reports until after the AG filed its lawsuit.
- Did not timely report **any of the salary payments made to CastroLang** between September 2015 and March 21, 2017.

How seriously did the AG prosecute this case?



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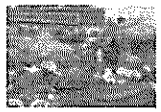

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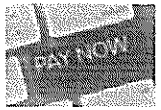
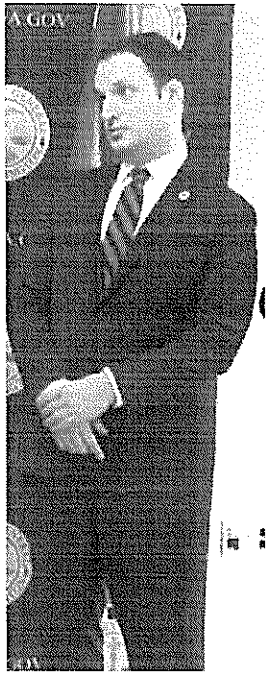


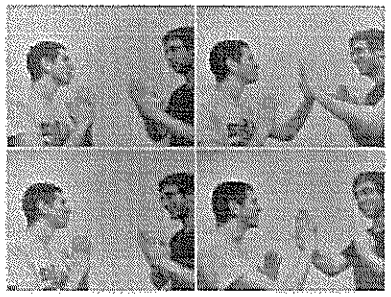
Spokane County Democrats settle AG lawsuit for $85,300 after kid glove...

Attorney General

Democrat Attorney General Bob Ferguson did not want to sue the Spokane County Democratic Party any more than he wanted to litigate against the other 18 Democratic Party organizations and politicians against whom this author forced him to file lawsuits. It should be noted, as a reflection on the hyper-partisan culture that permeates the AG's office today – former AG campaign finance attorney Walter Smith quit the AG a few months after this case was filed because he was only planning to litigate against Republicans and it "wasn't fair" to litigate against Democrats (see here). Also note, that when this author met with Smith and the other AG investigator last year, Smith only cared about exposing the Democratic Party whistleblower, not in uncovering the violations. Ferguson himself took the time to help the Spokane County Democratic Party raise money by speaking at their dinners even when his office was investigating them (something Ferguson did repeatedly for various Democrat organizations while they were knowingly violating the law).



Walter Smith quit his job at the AG's office last year because it was "unfair" to sue Democrats.



when suing Democrats and political allies, Bob Ferguson plays patty cake until they quietly get an easy settlement out of the way.

Despite the obvious and clear evidence that CastroLang willfully and maliciously attempted to hide evidence of his pay and illegal donations from the public, **the AG treated him with kid gloves, playing legal patty-cake, not looking too closely at inconvenient details,** and wrist slapping him with a $1500 fine in the end (see settlement here) – which CastroLang can laugh off as he makes his three equal $500 payments over the next 12 months. The Treasurer Justin Galloway was fined $500 for contributing with his bumbling incompetence (see settlement here). The $11,500 in legal and investigative costs were low-balled by the AG and indicative of a lack of investigative seriousness on their part. Finally, despite the clear evidence of willful and malicious behavior – more obvious than most political groups this author exposed over the past few years, the AG negotiated a modest settlement of $72,000 fine with half suspended for four years assuming "good behavior." A helpful payment plan was created, and the final settlement (linked here) was coordinated so that the press release could be made on Christmas Eve.

If you find yourself in legal hot water with the AG, it is very helpful if you are a Democrat and a donor to Bob Ferguson's election campaign. There are obviously two applications of the rule of law in Washington State. The first is the "we're all friends here" softball, kid-glove, pattycake style which the AG repeatedly uses with political allies and friends. The other is the scorched earth, no mercy, "we will never settle," rabidly personal destruction game which Bob Ferguson (and his 600 paid attorneys) only and exclusively unleash on political "enemies."

Ferguson has one face for Democrats and his political allies. He also has a crazy, insane side he shows to political enemies.

These enemies include people like **Tim Eyman, the initiative guy who helped cut back on the endless tax gravy train and is hated by the Democratic Party and the bloated bureaucracy in Olympia.** Another example would be Peter Zieve, the Mukilteo Businessman who dared to donate $1 million to a Pro-Trump SuperPAC in 2016 (all Republican donors in Washington State are going to get "special treatment" from the AG eventually – whether it is 3rd Party subpoenas like Eyman's case or direct scrutiny by the AG looking for any excuse to justify a lawsuit/legal fishing discovery expeditions). Another example would be the unemployed cobbler and retired judge in Grant County who apparently were involved in a $3900 anonymous flyer against Ferguson's political ally and friend who was running for Grant County prosecutor in 2014 – and are now being charged with $454,000 (see lawsuit here and press release here).

Washington State Democratic Party Chair Tina Podlodowski pretends to choke out Tim Eyman, but Bob Ferguson is abusing his office to do this for real.

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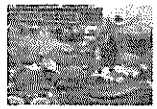

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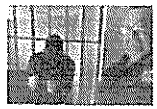

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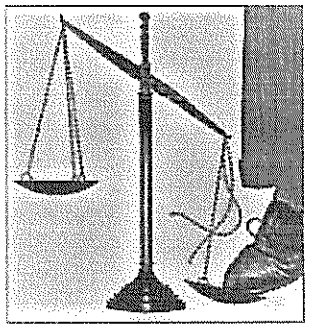
Attorney General

If you are a Democrat in good standing, and break the law, you won't get avalanched with 100 third party subpoenas (which has happened to Tim Eyman). If you are Ferguson's political ally, he won't depose your wife (which has happened to Tim Eyman). If you are one of Ferguson's political buddies, he won't seize millions of emails and then strategically release to the media embarrassing personal emails that have nothing to do with the legal case (which he has done to Tim Eyman and others). If you are one of Bob Ferguson's political friends, Ferguson won't issue a blizzard of press releases and media events discussing your case (which he did with Tim Eyman, Kim Wyman, and others).



Ferguson steps on the scales of justice frequently

It pays to be political friends with Ferguson because the strict rule of law will not be applied to you. **As a political ally it appears you can convince Ferguson to use the weight of the State to crush your political enemies as an added bonus. This works in Third World dictatorships, and now Ferguson demonstrates that the same technique works wonders in Washington State as well.**

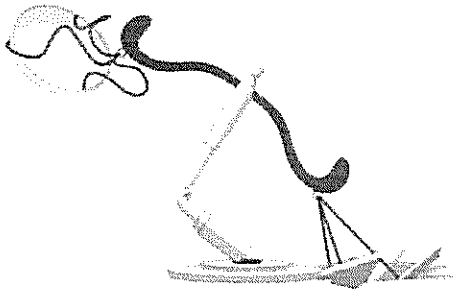
More examples of political/legal favoritism by the AG

Here are some other examples of political favoritism – repeatedly on display by this AG over the past few years:

- **Issuing no press releases for many legal settlements with Democrat politicians or groups.** For example – King County Democrats, Thurston County Democrats, Pierce County Democrats, Democratic Representative Jeff Morris, and many others. There is only one example of an AG settlement with a Republican group that didn't get press releases (and usually many press releases are issued if a Republican is the target).

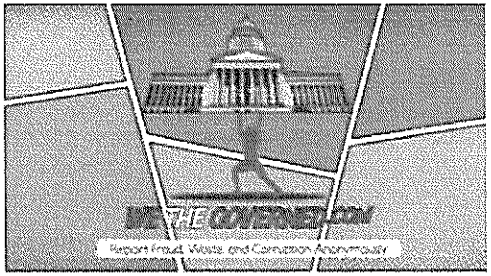
- **Creating a special payment plan** for Democratic groups. The 2017 settlement with the Pierce County Democrats invented this option (see original complaint here, original AG lawsuit here, and final settlement here). Until this case, the AG had never allowed payment plans for campaign finance cases.
- If embarrassed into putting out a press release, then **coordinating with the Democrat politicians or groups to ensure the press releases and/or settlements are made before important holidays** (See Spokane County Democrat press release Christmas Eve)
- **Using press release language to downplay the final settlement or significance of the violations**. For example, letting the violators have a quote (see failed 19th LD Democratic Party legislative candidate Teresa Purcell's press release here – note that Purcell's nephew is the AG's solicitor General), or failing to reference the total cost of the settlement, which is how the AG has historically referenced the value of these settlements on their enforcement page list. (For example the Spokane County Democratic Party – referencing "$50,000" owed rather than "$85,300" , Teresa Purcell – referencing "$16,000" rather than "$22,395", the Pierce County Democrats, etc).

In the end, the Spokane County Democratic Party still must pay their fines. Jim CastroLang learned that violating the law is no big deal, provided you are an insider. **The WEA and other unions have kicked in the cash to the Spokane County Democratic Party to pay this fine**, and while it was annoying for them to deal with the distraction, they can always blame this author and generally get the local media to go along with their story (see article here, and here).

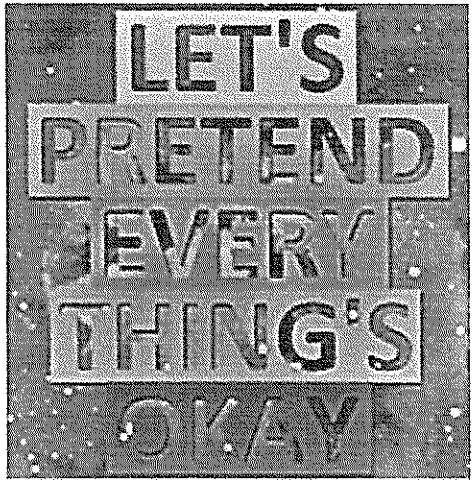


Ferguson breaks the scales of justice when it suits his political goals

It is troubling to realize how openly political insiders can violate the law and get away with little more than a wrist slap in Washington State. This would be problematic enough by itself, and if everyone got wrist slaps we couldn't say too much. **However, it is far more disturbing to realize that the rule of law is applied radically different based on the political affiliation of the target violator.** Insider political kid glove treatment is not new in Olympia. However, when contrasted with the radical and obsessive destruction of Bob Ferguson's political enemies abusing his position as AG, **we are entering an era when the application of the rule of law becomes so arbitrary and capricious as to be**



unrecognizable as the rule of law any longer. This is not okay or healthy for our community or our future.

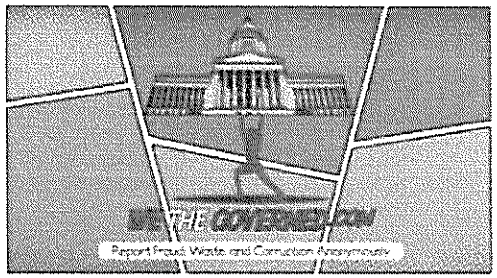


Most Washington political insiders want to pretend that everything is okay with Bob Ferguson.

OUR CONSTITUTION BEGINS WITH THE PHRASE "WE THE PEOPLE." IT WAS THE FOUNDER'S INTENT THAT GOVERNMENT BE CREATED BY THE PEOPLE, TO SERVE THE PEOPLE. IT WASN'T THEIR INTENTION FOR THE PEOPLE TO SERVE THE GOVERNMENT. IT WAS ALWAYS INTENDED THAT GOVERNMENT WHICH FAILED TO SERVE THE PEOPLE SHOULD BE "ALTERED OR ABOLISHED." UNTIL WE RETURN TO THE FOUNDER'S INTENT, WE REMAIN *WE THE GOVERNED.*

Additional AG settlements initiated by complaints filed by this author:

1. **King County Democratic Party** – Story linked here. Original Citizen Action Notice filed by author based on ignored PDC complaint from 2016. AG filed lawsuit May 12, 2017 – Thurston County Case #17-2-02636-34 linked here. Author files additional PDC



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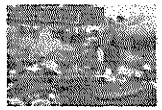

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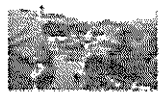

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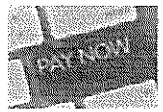

Spokane County Democrats settle AG lawsuit for $85,300 after kid glove...

Attorney General

complaints linked here and here. AG amends lawsuit June 8, 2018 to include additional violations identified by this author (linked here). Final settlement signd June 29, 2018 (linked here). Settlement completed just before July 4, 2018. **No 3rd Party Subponeas. No press release upon settlement. Total settlement of $36,797.** Total fine of $24,055 with $12,027.50 suspended 4 years. **Friendly payment plan** spread over 4 years. Another $12,742 in court,legal, investigative costs.

2. **Thurston County Democratic Party** – Story linked here. Original PDC complaint filed by author January 3, 2017 linked here. March 6, 2017 – AG files lawsuit – Thurston County Case #17 2 00972-34 linked here. Author files additional PDC complaints linked here, here, here, here, and here. AG amends lawsuit May 8, 2018 to include additional violations identified by this author (linked here). Final settlement signed June 15, 2018 (linked here). **No 3rd Party Subponeas. No press release upon settlement. Total settlement of $27,426.** Total fine of $16,686, with half suspended for 4 years. **Friendly payment plan** spread over years. Another $10,740 in court,legal, investigative costs.
3. **Pierce County Democratic Party** – Story linked here. Original PDC complaint filed by author May 18, 2017 linked here. AG files lawsuit – Thurston County Case #17 2 04610-34 linked here. Final settlement signed October 27, 2017 (linked here). **No 3rd Party Subponeas. No press release upon settlement. Total settlement of $38,520.** Total fine of $31,780, with half suspended for 4 years. First ever – friendly payment plan spread over years. Another $6,740 in court, legal, investigative costs. **Note – former PDC Director Evelyn Lopez was legal counsel for Pierce County Democratic Party.**
4. **Kittitas County Democratic Party** – Story linked here. Original PDC Complaints filed by author May 7, 2017 linked here and on September 29, 2017 linked here. AG files lawsuit on July 14, 2017 – Thurston County Case #17 2 04103-34 linked here. The second complaint filed by this author forced the AG to amend the lawsuit to add additional violations (see AG letter here). Final settlement was signed February 26, 2018 (linked here). **No 3rd Party Subpponeas. No press release upon settlement (although they did issue a friendly Tweet on March 5, 2018). Total settlement of $28,182.** Total fine of $15,825, with half suspended for 6 years. Forced to remit $5,217 directly to the State Treasurer (due to illegal anonymous sources). $6,740 in court, legal, investigative costs. **Note – due to previous history of violating campaign finance laws (see previous PDC fine), they were already on probation, so they had to pay the remainder of a $400 fine as an additional consequence.**
5. **San Juan County Democratic Party** – Story linked here. Original PDC complaint filed by author April 26, 2017 linked here. AG filed lawsuit on June 28, 2017 – Thurston County Case #17 2 03876-34 linked here. Final settlement was signed April 19, 2018 linked

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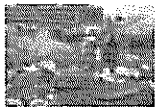

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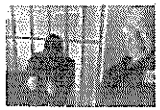

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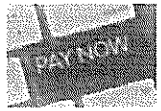

Spokane County Democrats settle AG lawsuit for $85,300 after kid glove...

Attorney General

linked here. **No 3rd Party Subponeas. No press release upon settlement. Total settlement of $13,105.** Total fine of $8220, with half suspended for 4 years. $4885 in court, legal, investigative costs.

6. **Eastside Democratic Dinner Committee** – Story linked here. Orginal PDC complaint filed by author April 21, 2017 linked here. AG filed lawsuit on June 19, 2017 – King County Case #17-2-15450-6 SEA linked here. Final settlement was signed March 6, 2018 linked here. **No 3rd Party Subponeas. No press release upon settlement. Total settlement of $6,925.** Total fine of $2,785, with half suspended for 4 years. $4,140 in court, legal, investigative costs.
7. **Washington & North Idaho District Council Laborers PAC** – Story linked here. Original PDC complaint filed by this author May 22, 2017 linked here. AG filed lawsuit on August 1, 2017 – Thurston County Case #17-2-04408-34 linked here. Final settlement was signed September 22, 2017 linked here. **No 3rd Party Subponeas. No press release upon settlement. Total settlement of $36,310.** Total fine of $30,695, with half suspended for 4 years. $5,615 in court, legal, investigative costs. **Note – shortly after this settlement, the author found additional violations of the campaign finance laws (see link), but the PDC gave them a free pass as the PAC decided to dissolve (see final letter here).**
8. **Democratic Party candidate for 19th LD state house seat Teresa Purcell.** See story linked here. Original PDC complaints filed by this author October 13, 2016 linked here. AG files lawsuit on December 19, 2016 – Thurston County Case #16-2-04959-34 linked here. This author filed additional follow-up complaints linked here, here, here, and here. These led to additional violations being added to the final lawsuit, which was amended by the AG (see final amended lawsuit linked here). Final settlement was signed May 25, 2018 linked here. **No 3rd Party Subponeas. One friendly press release, which allowed Purcell a nice quote, which is highly irregular. Total settlement of $22,395.** Total fine of $18,395, with $8k suspended for 4 years. $4,000 in court, legal, and investigative costs (which is exceptionally low considering the motion practice on this case). **Note – Teresa Purcell's nephew is the solicitor general in the AG's office, although everyone claims this didn't influence Purcell's treatment in this case.**
9. **Democratic Party Speaker of the House Frank Chopp (43rd LD).** See story linked here and here. Original PDC complaint was filed by this author on December 28, 2016 linked here. The AG filed the lawsuit on February 24, 2017 Thurston County Case #17-2-00947-34 linked here. Final settlement was signed March 14, 2017 linked here. **No 3rd Party Subponeas. There was a press release linked here. Total settlement of $6,880 (not including the $1200 in illegal personal expenses he had to reimburse his campaign).** Total fine of $3,480 with half suspended for 4 years. $4,729.78 in court,

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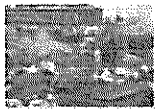
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legal, and investigative costs.

10. **Democratic State Senator Sam Hunt (22nd LD)**. See story linked here and here. Original PDC complaint was filed by this author on October 22, 2016 linked here. Additional complaints were filed by this author against Hunter (linked here and here). The AG filed the lawsuit on February 24, 2017 Thurston County Case #17-2-00849-34 linked here. Final settlement was signed July 14, 2017 linked here. **No 3rd Party Subponeas. No press release upon settlement. Total settlement of $6,475.** Total fine of $2,735, with half suspended for 4 years. $3,740 in court, legal, and investigative costs. **Note – Senator Hunt was one of this author's original inspirations for learning about campaign finance laws when he wrote this letter to the PDC telling them (accurately) that I was ignorant about the campaign finance laws.**
11. **Democrat State Represenative Jeff Morris (40th LD)**. See story linked here. Original PDC complaint was filed by this author on January 26, 2017 linked here. The AG filed the lawsuit on April 10, 2017 Thurston County, Case #17-2-02224-34 linked here. Final settlement was signed on November 20, 2017 linked here. **No 3rd Party subponeas. No Press Release upon settlement. Total settlement of $1,130.** A micro fine of $170. $960 in court, legal, and investigative costs.
12. **Democrat State Rep Strom Peterson (21st LD)**. See story linked here. Original PDC complaint filed by this author on February 7, 2017 linked here. AG filed lawsuit on April 10, 2017 Thurston County Case #17-2-02223-34 linked here. AG settled lawsuit on August 15, 2017 linked here. **No 3rd Party subponeas. No Press Release upon settlement. Total settlement of $11,950.** A fine of $8,710 with half suspended for 4 years. $3,240 in court, legal, and investigative costs.
13. **Former Department of Ecology Director, and Former Chief of Staff Jay Manning**. See story linked here, and here, and here (additional campaign finance violation settlement for a PAC he managed on behalf of cult leader JZ Knight). Original PDC complaint filed by this author on December 8, 2016 linked here. The AG filed lawsuit on February 3, 2017 Thurston County Case #17-2-00873-34 linked here. AG settled lawsuit on February 13, 2017 linked here. **No 3rd Party subponeas. Press release issued lumping his settlement with another one linked here. Total settlement of $6,385.** A fine of $3,145 with half suspended for 4 years. $3,240 in court, legal, and investigative costs.
14. **Democrat candidate for state legislature in 40th LD Sharlaine LaClair**. Original PDC complaint filed by this author on February 7, 2017 linked here. The AG filed lawsuit on April 10, 2017 Thurston County Case #17-2-2222-34 linked here. The AG settled lawsuit on April 6, 2018 linked here. **No 3rd Party subponeas. No press release upon settlement. Total settlement of $2500.** A fine of $2500 with half suspended for 4 years. No court costs.

15. **Democrat candidate for Thurston County Commission Jim Cooper**. See story linked here. Also story linked here. Original PDC Complaint filed by this author on October 17, 2016 linked here. Original warning letter from PDC linked here. The AG filed lawsuit on December 19, 2016 Thurston County Case #16-2-04960-34 linked here. This author assisted the AG with additional PDC complaints pointing out additional violations linked here, here, here, and here. The AG settled lawsuit on June 15, 2018 linked here. **No 3rd Party Subponeas. No press release upon settlement. Total settlement costs of $1,125.** Fine only with no court or legal costs imposed.
16. **Democrat candidate for Thurston County Commission Kelsey Hulse.** See story linked here. Original PDC Complaint filed by this author on October 18, 2016 linked here. AG files lawsuit on February 24, 2017 Thurston County Case #17-2-00548-34 linked here. The AG settled lawsuit on March 2, 2017 linked here. **No 3rd Party Subponeas. No press release upon settlement. Total settlement costs of $2,920**. A fine of $1,030, with half suspended for 4 yrears. $1,890 in court, legal and investigative costs imposed.

Background Articles and Documents:

Spokesman Review – "Spokane County Democrats will pay $47,300 for campaign finance violations"

Seattle Times – "Spokane County Democrats to pay campaign finance violation fine"

WSG – "For Spokane Democrats and allied PACs – a financial reckoning for lawbreaking"

Spokesman Review – Oct 31, 2017 – "PAC fueled by Spokane firefighters' money should clean up or get out of local politics" (Shawn Vestal)

Original PDC Complaint (Case#6059) filed against Spokane for Honest Government PAC

PDC notice of administrative charges against Spokane for Honest Government PAC (Case #6059)

PDC final order charging Spokane for Honest Government PAC $10,000 ($5K suspended)

Dec 15, 2017 letter from PDC Director Peter Lavallo to Spokane for Honest Government PAC demanding they follow the law and pay their fine

Exhibit 6

From: Mark Lamb [mailto:mark@northcreeklaw.com]
Sent: Friday, March 31, 2017 12:55 PM
To: Tim Eyman
Subject: At the hospital with my dad, for distribution.

For all of the heated rhetoric earlier today, this dispute is simple: whether two transactions needed to be included on campaign reports. The Attorney General believes they should, we do not. From the beginning, Mr. Eyman has made clear he did nothing wrong and the money he received was lawfully earned for the services he provided. The Attorney General has filed a suit against my clients today because (with the statute of limitations looming) these claims would have otherwise been time-barred. Many plaintiffs overreach and file a kitchen sink of claims when they are faced with a statute of limitations deadline.

Just last year the Attorney General attempted several politically motivated campaign finance prosecutions that have been dismissed on summary judgment. Just this week, the Supreme Court denied the Attorney General's request for direct review in one of these failed prosecutions. The more I have examined the State's claims in this matter the less impressed I am. Mr. Eyman has the same First Amendment rights as the Attorney General himself. It is chilling that the stated purpose of this action is to permanently bar him from participating in the political process in this State.

Cases are litigated in court, not press conferences. Indeed, in Washington state the special responsibilities of a prosecutor include the obligation to, "refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused". I will leave it to others to decide if this morning's press conference meets that standard.

Mark Lamb
The North Creek Law Firm
A Professional Corporation

12900 NE 180th Street
Suite #235
Bothell, WA 98011

(425) 368-4238
(425) 489-2824 (FAX)

www.northcreeklaw.com

Exhibit 7

☐ EXPEDITE
☒ No hearing set
☐ Hearing is set
Date: _____
Time: _____
Judge: Hon. James Dixon

STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

TIM EYMAN, et al.,

Defendants.

No. 17-2-01546-34

REPONSE TO STATE'S OBJECTION TO NOTICE OF INTENT TO WITHDRAW

I. INTRODUCTION

I do not represent Mr. Eyman. I do not represent him in *State v. Eyman*. I do not represent him in *State v. Tougher to Raise Taxes*. I do not represent him in *In re Eyman*. I do not represent him in Thurston County Superior Court. I do not represent him in Bankruptcy Court. I do not represent Tim Eyman Watchdog For Taxpayers LLC. That entity no longer exists. When it existed, its sole member was Tim Eyman. I do not represent Tim Eyman.

This alone suffices for the Court to consent to my removal from the service list in this case, consistent with the Notice of Intent to Withdraw which I filed on January 7, 2019. Had the State bothered to correspond with me in any fashion other then service of motions and subpoenas – to meet and confer, for example, prior to filing its Objection – it would have learned that its Objection is futile. By filing the Objection, the State insures that this Court is bothered with review of materials that ought not concern the Court at all.

But the State has another motive, beyond burdening the Court with useless motion practice. The State also wants to burden me with motion practice, knowing that, as a result of

Ard Law Group PLLC
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Bainbridge Island, WA 98110
Phone (206) 701-9243

its actions, that it is unethical for me to do the very work it demands the Court compel me to do, and also that it is illegal for me to be compensated for any work I undertake in this matter. Thus, while it is unethical for me to purport to act on Mr. Eyman's behalf, the State's frivolous objection ensures that I must take the time to respond and appear in support of my Notice, despite that the State ensured that, pursuant to federal bankruptcy law, I must do so without compensation. Why would the State file this entirely frivolous objection, taking positions in this Court that explicitly contradict the positions it asserted to the Bankruptcy Court for the Western District of Washington?

A. The State's Position In Bankruptcy: Ard Is Not Competent In Discovery Matters

Mr. Eyman filed for bankruptcy protection in late November. Pursuant to federal bankruptcy law, no attorney may represent Mr. Eyman – or, more accurately, no attorney may represent his bankrupt estate which is now the entity liable for any eventual fine in this case – without leave of the bankruptcy court. Because leave of court cannot be sought on the day of filing, practitioners generally continue work and seek appointment *nunc pro tunc* back to the day of filing. Together with bankruptcy counsel, I continued work in December and sought appointment as special counsel on January 4, 2019, for this case.

On December 28, the State of Washington, through counsel, objected to my appointment. That Objection specifically recited numerous ways in which, in the view of the State, I am not competent to handle discovery in *State v. Eyman*:

> Debtor Eyman seeks to appoint what will now be his third law firm to represent him in the *State of Washington v. Eyman, et al.* case. The case was filed in March 2017. Declaration of Linda A. Dalton (Dalton Decl.) ¶ 3. The attorney who represented him during the state investigation stage continued on as counsel (solo practitioner Mark Lamb) until January of 2018 when Debtor Eyman hired co-counsel (creditor Klinedinst PLLC) to assist Mr. Lamb with the discovery proceedings which had become contentious. Dalton Decl. ¶ 3. Mr. Lamb withdrew from Debtor Eyman's representation in August 2018 and the Klinedinst firm continued until the bankruptcy filing when Mr. Ard substituted as counsel of record for Debtor Eyman. Dalton Decl. ¶ 4.
>
> Discovery disputes continue through this filing. Dalton Decl. ¶ 5. These disputes include Debtor Eyman's failures to timely respond to discovery and failures to provide responsive records. Dalton Decl. ¶ 5. A Special Discovery Master was appointed by the trial court. Dalton Decl. ¶ 6. More than 30 discovery motions

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> have been filed and ruled on in the case so far. Dalton Decl. ¶ 6. Discovery abuses—including those of Debtor Eyman—led the trial court to hold all defendants to be in contempt and initially assess per day sanctions against them as of February 2018. Dalton Decl. ¶ 7. These sanctions were increased to $500 per day for Debtor Eyman and his co-defendant limited liability corporation as of September 7, 2018. Dalton Decl. ¶ 7. While the Special Discovery Master held that Debtor Eyman had purged contempt in November, this matter remains in dispute. Dalton Decl. ¶ 8. Discovery is still outstanding including production of documents and numerous depositions including several to be conducted out-of-state. Dalton Decl. ¶ 9.
>
> Debtor Eyman's description of the services to be rendered is insufficient because he provides no information concerning whether Mr. Ard's firm (a solo practice) is capable of addressing the outstanding discovery issues and meeting discovery deadlines. Debtor Eyman provides insufficient reasons for the dismissal of the Klinedinst law firm and the hiring of Mr. Ard, particularly in light of the history of the litigation where a former counsel, who was a sole practitioner (Mr. Lamb), did not have the capacity to handle the case. To date, hundreds of thousands of pages of documents have been produced in the case requiring a sophisticated capability for handling electronic discovery. Dalton Decl. ¶ 9. . . Without satisfying the requirements of the rule and law concerning Mr. Ard's ability to adequately represent the Debtor's estate in the enforcement case, the Court should reject the application.

State's Objection to Application to Hire Attorneys at 3-5 (Ard Decl. Exh. A). Naturally, the Bankruptcy Court disregarded the State's legally dubious assertion that "Debtor Eyman provides insufficient reasons for the dismissal of the Klinedinst law firm . . ." given that Klinedinst, as the State noticed, was a creditor and therefore conflicted from representation as a matter of law. However, in response to the State's concerns about the ability of a solo practitioner to manage discovery in this case – proffered, no doubt, consistent with Rule 11 – the Court declined to appoint me.

The result of my non-appointment is that it is illegal for me to be paid for work in *State v. Eyman*. On January 7, 2019, I filed my Notice of Intent to Withdraw, clearing the field for new counsel who Mr. Eyman could select and which the State considered sufficiently competent not to oppose. Ard Decl. Exh. B.

B. The State's Blizzard of Discovery

Then the dam burst. In light of my withdrawal as counsel for Mr. Eyman, but within the mandatory ten day window prior to its effective date, the State worked to fulfill its promise

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that no solo practitioner could competently represent Mr. Eyman. It began with a relatively innocuous letter on January 8th, 2019, demanding response to various "outstanding matters." Ard Decl. Exh. C. Of course those were outstanding ***discovery*** matters, the very topic on which the State considered me incompetent just days earlier, successfully ensuring that I could not be paid for work, and creating insurmountable ethical hurdles to performing even unpaid work.

I responded by requesting, *i.a.*, "the professional courtesy that the State not undertake any action in either matter until Friday, January 18th, 2019. If Mr. Eyman can identify any counsel willing to represent him prior to next Friday, that counsel will appear; otherwise he will proceed *pro se*." Ard Decl. Exh. D. That request received no acknowledgment. Notably, I also requested "that the State forward a settlement demand identifying the financial and injunctive terms under which the State would resolve and finally dismiss both pending proceedings as to him (*State v. Eyman* and *State v. Tougher To Raise Taxes*)." Consistent with the Attorney General's position that the State will not settle with Mr. Eyman, it has also ignored that request, despite that the State could terminate this matter immediately on its demanded terms by simply forwarding those terms.

Instead, three minutes later, the State served 15 deposition subpoenas. Ard Decl. Exh. E. It noted, *i.a.*, three depositions for January 23, two for the 24th, two for the 28th, two for the 29th, and two for the 31st. Needless to say, with no local rule compelling the State to meet and confer on scheduling depositions, it did not. The next day, the State continued, filing Discovery Motion No. 20 with Judge Tabor. Accompanied by the Declaration of S. Todd Sipe, that motion noted a hearing before Judge Tabor on discovery matters – matters in which the State considers me not competent – for January 17th. (The motion and subpoenas were the sole response to my request for the State's professional courtesy to allow the mandatory ten day window for my withdrawal to pass.)

I responded by requesting of Judge Tabor that he defer any action, explaining my predicament. Ard Decl. Exh. F. The State, by email from Ms. Dalton, said only this in response:

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> Good afternoon Judge Tabor:
>
> The State received and reviewed Mr. Ard's email to you and his email request that you take no action on the State's pending motion set for consideration on January 17. Needless to say, the State disagrees with Mr. Ard's contentions. Since there is nothing properly pending before you from the Eyman Defendants on their request, the State does not intend to respond. Thank you.

Ard Decl. Exh. G. The State did not identify which of my "contentions" it disagreed with, and given that it had in fact opposed my appointment calling me incompetent in discovery, that its opposition had met with success, and that I had noticed my intent to withdraw, it is hard to identify any basis for disagreement consistent with the record in the case.

But the State was not done testing the limits of my alleged incompetence. Sixty seconds later, it filed a "Motion to Revise Special Discovery Master's Order Granting in Part and Denying in Part Eyman Defendants' Fourth Motion to Purge Contempt." Ard Decl. Exh. H. That was supported by the declarations of attorneys Dalton and Sipe. It noted the motion for hearing on January 18th, 2019 – guaranteeing that a response was required by court rule during the very ten day window in which I had specifically requested of both those attorneys the professional courtesy of no discovery motions on the grounds that the State considered me incompetent to respond, but during which time I could not, by operation of law, be excluded from listed representation.

C. The State's Objection: Incompetent Counsel Must Represent Mr. Eyman!

On January 14th, I received the most direct response to my request of January 8th that the State not oppose my Notice of Intent to Withdraw: An objection to that Notice. As I had pleaded with the State, "Because of the State's successful objection, as you know, it is impermissible for me to be paid for any time expended on this matter, past or future. In light of the State's objection to my appointment, I presume it will not object to my withdrawal. I certainly hope to receive the professional courtesy of not having to spend unpaid time on a contested motion that affords the State the result it sought and received before the Bankruptcy

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Court." The State, through attorneys Dalton, Newman, Sipe, and Crisalli, responded by objecting and compelling this response.[1]

The State begins by presenting a trio of entirely frivolous objections, which would merit no attention from this Court but for the fact that the State actually presented them:

> The notice is deficient under Civil Rule 71 for several reasons. First, it does not identify the trial date pending in the case. CR 71(c)(1). Next, Mr. Ard did not file a proof of service of his notice on the "persons represented by the withdrawing attorney". CR 71(c)(2). Finally, and most importantly, the notice does not include the names and last known addresses of the persons Mr. Ard represents in this proceeding and to whom this notice applies. CR 71(c)(1). This is important to ensure that the State (and other parties) can properly serve Defendant Eyman, either personally as a pro se litigant or through any subsequent attorney.

To the first 'objection', the State likely knows the trial date, and need not request this Court's intervention to secure a reminder. If it has lost its records, it could no doubt have inquired of the Clerk, rather than bother this Court with contested motion practice simply to remedy its internal calendaring failures.[2] To the second and third, if the State actually cared about either hypertechnical deficiency, it could readily have sought resolution by the simple expedient of contacting me. It could have, for example, emailed me, or called me, or even written a letter via First Class U.S. Mail, any time during the week between my filing of the Notice and this Objection. So doing, without bothering the Court, it could have secured confirmation that Mr. Eyman is aware that I no longer represent him, and learned his address. Notably, in asserting this supposed deficiency, the State does not contend it does not know how to contact Mr. Eyman.

We move, then, from the ridiculous to the sublime. Recall, of course, that I was not appointed as counsel by the bankruptcy court, in response to the State's assertion that, as a solo

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[1] Perhaps the State seeks to avoid its internal contradictions by having a different quartet of attorneys seek to compel my continued representation of a former client than the quartet which opposed it. Dalton and Newman have signed both positions, once under Federal Rule 11 and once under the state version.

[2] N.b.: January 27, 2020.

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practitioner, I am not competent to handle discovery matters. To this Court, the State has a different bridge to sell:

> The State also objects to the extent that discovery cutoff is scheduled to occur on February 12, 2019,[3] in that this withdrawal should not be used as a means to further delay scheduled depositions and already-overdue discovery. Mr. Ard only just recently substituted as counsel for the Eyman Defendants on November 30, 2019. This case has been stayed since December 14, 2018 based on Defendant Eyman's bankruptcy filing. The bankruptcy court recently affirmed the State's position that an automatic stay did not apply to these proceedings and the State is currently resetting the depositions, subpoenas duces tecum, and motions that were postponed based on that filing. With a short time to complete discovery, ***Mr. Ard should be required to continue until at least discovery is complete.***

The State, through its quartet of current signatories, evinces some shame. Two of the four attorneys signing this document also signed the bankruptcy objection asserting that "Eyman . . . provides no information concerning whether Mr. Ard's firm (a solo practice) is capable of addressing the outstanding discovery issues and meeting discovery deadlines. . . particularly in light of the history of the litigation where a former counsel, who was a sole practitioner (Mr. Lamb), did not have the capacity to handle the case." To justify the demand that I, who no longer represent Mr. Eyman, and who cannot be paid as a result of the State's objection to my appointment, nonetheless hang around for a month, the State says this:

> It is anticipated that Mr. Ard will raise the State's objection to his being appointed as counsel by the United States Bankruptcy Court as inconsistent with the State's position here.[4] To address that perceived inconsistency, the State's objection in Bankruptcy Court was that Mr. Ard failed to satisfy the federal court rule procedural requirements necessary to be appointed, and the State, as a creditor, requested that those procedural deficiencies be addressed before the Bankruptcy estate of Defendant Eyman was depleted to pay Mr. Ard's fees.[5]

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[3] The current discovery deadline flowed from date the State filed its comfort order from the bankruptcy court. The trial date, which the State purports not to know, is January 27, 2020, fully 349 days later. The State made no effort to confer with counsel on these deadlines. Presumably one could consider agreeing to a few more days for discovery in that 349 day window.

[4] How did the State anticipate this, even without conferring with me prior to filing this objection?

[5] The State did not, as is customary practice in federal courts in the state of Washington, make that request directly to counsel prior to engaging the bankruptcy court in contested motion practice. Had it actually cared about satisfaction of federal court procedural requirements, it would have inquired of counsel prior to objecting, to solicit compliance with those requirements it perceived as unmet.

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Mr. Ard similarly failed to follow the necessary steps to withdraw here, omitting necessary information that protects the State and the other parties in this matter.[6]

So, to recap: in what the State now claims was merely a profound concern for compliance with federal court procedural requirements, it objected to my appointment as special bankruptcy counsel. It expressed its concern for federal bankruptcy procedure in terms of my competence or lack thereof for handling discovery, while attempting to cover itself with the partial fig leaf of lack of sufficient disclosure so that it could later claim its objection was merely procedural, not going to the merits.[7]

In any event, its objection carried the day. I was not appointed, and my work from November 29 through the present may not be compensated, by operation of federal law. Today, I no longer represent Mr. Eyman. Yet the State considers that I ought to be compelled by this Court to remain counsel of record, for the very purposes of managing the discovery practice for which it considers me incompetent, and about which it deigns not to speak to me. Despite my specific request for the professional courtesy of delaying discovery motions pending my withdrawal by operation of law, the State filed multiple discovery motions that purport to require my response – responses I cannot ethically provide. Despite my request that the State simply pocket its bankruptcy court win and let me go gently into that good night, it has objected to ***both*** my appointment and my withdrawal. Its careful crafting of both objections as resting entirely on procedural grounds does not disguise the underlying conflict in the State's position, and certainly does not suddenly enable me to act, consistent with ethical obligations governing practice in this State.

The State's Objection to my withdrawal lacks any merit, as it knows. It was not filed in order that the State's attorneys could learn the trial date in *State v. Eyman*. It was not filed in order that the State's attorneys could learn Mr. Eyman's contact information. It was not even

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[6] Information known to the State, or which it could secure without motion practice.

[7] It was, of course, not meritorious.

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filed in order that this Court would compel me to attend depositions and hearings in a matter in which I represent no party. Instead, it was filed because it could be filed, and because I specifically requested it not be filed. It was filed to deter any other counsel from representing Mr. Eyman. What sane lawyer would notice an appearance here, knowing that payment for services rendered requires approval of the bankruptcy court, an approval which is subject to the State's objection?[8] And when, after appearing in the middle of the storm of subpoenas, that attorney secures the next hearing date on the bankruptcy court's next calendar for appointment, will the State object? And prevail? And then what? The attorney cannot exit state court except on ten days' notice, and absent objection from the State – objection which will be forthcoming, as it shows. No attorney will volunteer to appear for a client knowing that the State will exert every effort to ensure that counsel who appear in this court will work as long as possible, and as long as the Court grants the State, for no compensation.

D. Conclusion

I do not represent Mr. Eyman. I cannot act on his behalf. Even if I did represent him, the State's conflicting positions ensures that I could not ethically act on his behalf in discovery matters, the very matters the State asks this Court to compel me to undertake with no legally permissible compensation. The fundamental conflict that forbids me to act results directly from the conflicting positions the State has taken in bankruptcy court and before this Court. The State's late excuse, claiming concern merely for procedural niceties, is belied by the fact that every perceived procedural deficiency could have been resolved not by contested motion practice as the State elected, but by the simple expedient of an inquiry to counsel. Plainly, what the State seeks is neither information proving up my competence, nor the trial date, nor Mr. Eyman's confirmation of my non-representation, nor his address. The State wants motions, motions, and more motions. The State does not want resolution of the dispute, but discovery.

[8] On purely procedural grounds, to be sure.

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But the State cannot hide the blatant conflict in its positions regarding my ability to manage discovery by calling it merely a concern for procedural niceties; cannot by its papers eliminate the ethical quandary its own successful litigation positions created; and cannot compel me to appear in a case in which I no longer represent any party.

The Court should reject the State's Opposition and acknowledge that I no longer represent any party in the matter, cannot act on behalf of any party, and remove me from the roster of attorneys responsible for taking action in this matter.

January 15, 2018.

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By: _____

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CERTIFICATE OF SERVICE

I CERTIFY UNDER PENALTY OF PERJURY under the laws of the United States of America that on January 15, 2018, I served the foregoing via email per agreement between the parties on the following:

Attorneys for Plaintiff	**Attorneys for Defendants**
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CERTIFICATE OF SERVICE

I CERTIFY UNDER PENALTY OF PERJURY under the laws of the United States of America that on January 15, 2019, I served the foregoing via email per agreement between the parties on the following:

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