NO. 11-35854

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOHN DOE #1, an individual, JOHN DOE #2, an individual, and PROTECT MARRIAGE WASHINGTON,

Appellants,

v.

SAM REED, in his official capacity as Secretary of State of Washington, BRENDA GALARZA, in her official capacity as Public Records Officer for the Secretary of State of Washington,

Respondents.

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

No. C09-5456BHS
The Honorable Benjamin H. Settle
United States District Court Judge

CONSOLIDATED RESPONSE OF DEFENDANTS AND INTERVENORS WAFST AND WCOG TO EMERGENCY MOTION FILED UNDER 9TH CIR. RULE 27-3

ROBERT M. MCKENNA
Attorney General

Anne E. Egeler, WSBA # 20258
Deputy Solicitor General

Kevin Hamilton, WSBA #15648
Perkins Coie
Washington Families Standing Together

Leslie Weatherhead, WSBA #11207
Witherspoon Kelley
Washington Coalition for Open Government

I. INTRODUCTION

This case is moot. On October 17, 2011, the district court issued its order[1] granting summary judgment to the State defendants and Intervenors Washington Coalition for Open Government (WCOG) and Washington Families Standing Together (WAFST), denying the Doe plaintiffs' and PMW's (collectively PMW) motion for summary judgment, and dissolving the preliminary injunction. The district court order has been posted on numerous websites, and can no longer be made confidential. After the preliminary injunction was dissolved, the Secretary of State's Office released the signed petitions, as mandated by Wash. Rev. Code § 42.56.520. There is no longer a case or controversy.

In addition, PMW's motion does not comply with the Federal Rules of Appellate Procedure. PMW has a pending motion for injunctive relief in the district court. There is no showing that the district court cannot or will not timely rule on the request. PMW's strategic decision not to seek an expedited decision in the district court does not enable it to file a duplicate motion in this Court.

---

[1] Order Granting Summary Judgment in Favor of Defendants and Intervenors and Denying Plaintiffs' Motion for Summary Judgment, *Doe v. Reed*, No. C09-5456BHS (U.S.D.C. W.D. Wash., Oct. 17, 2011) (Order).

Finally, PMW cannot establish the factors necessary to obtain the injunction it seeks. Even if there were a case or controversy, Plaintiffs have no likelihood of success on the merits. The district court ruled against Plaintiffs on numerous, independent bases, finding Plaintiffs' claim both legally and factually deficient. For example, as the district court found, the State has disclosed PMW's contributors for years, and yet there is no evidence that a single PMW contributor suffered any sort of harassment or threats as a result. The balance of the equities tips sharply in favor of the State and public interest in open government.

II. STATEMENT OF THE CASE

This case concerns Referendum 71 (R-71), a ballot measure that sought a statewide vote in an effort to overturn a domestic partnership law signed into law in May 2009. The measure ultimately qualified for the ballot after the Secretary of State determined PMW, the measure's sponsor, had submitted petitions signed by at least 120,577 legally registered voters. The law that was the subject of R-71 was then affirmed by the voters in November 2009.

PMW commenced this action on July 28, 2009. Seeking to prevent disclosure of R-71 petitions, PMW brought both a facial and as-applied challenge to Washington's Public Records Act. PMW obtained a preliminary

injunction on its facial challenge, the State appealed, and this Court reversed. *Doe v. Reed*, 586 F.3d 671 (2009). The Supreme Court accepted review and affirmed. *Doe v. Reed*, 130 S. Ct. 2811 (2010).

On remand, the district court considered PMW's as-applied challenge. The parties filed cross motions for summary judgment after engaging in discovery. On October 3, 2011, the district court heard oral argument and advised the parties it intended to rule within two weeks. At no time did PMW ask the district court to impose a temporary injunction or stay pending appeal, if it were to grant the State's and Intervenors' motions for summary judgment.

On October 17, 2011, the district court granted summary judgment to the State and Intervenors and dissolved the preliminary injunction on disclosure. In its order, the district court identified by name the individual plaintiffs (who had up to that point proceeded under the "Doe" pseudonym) and PMW's other witnesses. Consistent with the district court's decision on the merits, it did not seal its order. The order is now in the public domain, and many media and other websites, including the Seattle Times and Los Angeles Times, have posted a copy of the order.[2]

---

[2] *See, e.g.,* The Seattle Times http://seattletimes.nwsource.com/html/edcetera/2016531125_referendum_signers_names_have.html; The Los Angeles Times

The signed R-71 petitions are public records under Washington law. Wash. Rev. Code § 42.56.010(2). Once the preliminary injunction was dissolved, Washington law required that the Secretary of State promptly respond to requests for disclosure of the petitions. Wash. Rev. Code § 42.56.520. Pursuant to long-pending public records requests and new requests made shortly after entry of summary judgment, the State has disclosed the R-71 petitions directly to 30 organizations and individuals.

On October 17, 2011, PMW filed a notice of appeal. In addition, it filed a motion for injunctive relief pending stay in the district court, which it noted for November 4, 2011. The district court has not issued a ruling on the motion for injunctive relief. Three days later, PMW filed the present motion.

---

http://latimesblogs.latimes.com/nationnow/2011/10/gay-marriage.html; The Tacoma News Tribune http://blog.thenewstribune.com/politics/2011/10/17/u-s-district-court-judge-benjamin-settle-says-protect-marriage-washington-not-entitled-to-disclosure-exemption/; The Bellingham Herald http://www.bellinghamherald.com/2011/10/17/2232340/judge-release-r-71-names-gay-rights.html; http://www.keprtv.com/news/local/132023628.html; The Everett Herald http://heraldnet.com/article/20111017/NEWS01/710179864; The Stranger http://slog.thestranger.com/slog/archives/2011/10/17/judge-orders-names-on-r-71-petitions-to-be-released ; http://ballotpedia.org/wiki/index.php/Doe_v._Reed; http://thinkprogress.org/lgbt/2011/10/17/346055/washington-anti-gay-group-must-finally-disclose-referendum-71-ballot-signatures/ http://electionlawblog.org/?p=24330; http://www.prophecyfellowship.org/showthread.php?t=365203

III. STANDARD OF REVIEW

As the moving party, PMW bears the burden under Federal Rule of Appellate Procedure (FRAP) 8(2), of showing that awaiting a district court ruling prior to filing a motion in this Court was impracticable, or that the district court denied PMW's motion for injunction. In addition, PMW must provide the evidence it is relying on and the relevant parts of the record.

The standard for determining whether a stay should be granted pending appeal is the same as the standard for determining whether a preliminary injunction should be granted. *Golden Gate Restaurant Ass'n v. City and County of San Francisco*, 512 F.3d 1112, 1115 (9th Cir. 2008). This standard places the burden on PMW, as the moving party, to show 1) a likelihood of success on the merits; 2) that irreparable harm is likely to be suffered in the absence of preliminary relief; 3) that the balance of equities tips in its favor; and, 4) that injunction is in the public interest. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

A stay is "'not a matter of right, even if irreparable injury might otherwise result to the appellant.'" *Nken v. Holder,* 556 U.S. 418, 129 S. Ct. 1749, 1757 (2009), quoting *Virginian R. Co. v. United States,* 272 U.S. 658, 672 (1926). It is awarded only if there is a clear showing that the movant is entitled to such relief.

Id. at 1761. PMW has not satisfied its burden, and the case is now moot. Therefore, this Court should deny PMW's emergency motion for injunction pending appeal.

IV. ARGUMENT

A. After Five Days of Widespread Disclosure of The District Court Order And Signed Petitions, Disclosure Is A Moot Issue

PMW's motion should be denied because it is moot. The objective of PMW's application is an injunction shielding the identities of the "Doe" plaintiffs as signers of the R-71 petitions from the public.[3] But public identification of Appellants is already a *fait accompli,* as a consequence of the media reporting on (and reproduction of) the district court's order granting summary judgment, and of the Secretary of State's execution of his mandatory statutory duty following dissolution of the injunction. There is no order this Court can make that would afford PMW the relief it seeks. In such circumstances, the Court should deny the motion as moot.[4] *IBTCWHA*, *Local*

[3] PMW has from time to time purported to act for all 138,000 signers of the R-71 petition. However, it never sought certification of the petition signers as a class; only the "Doe" plaintiffs sought relief as parties to the litigation, and their identities are now fully available to the public.

[4] *See also Fair v. U.S. E.P.A.*, 795 F.2d 851, 854 (9th Cir. 1986) (appeal moot where relief sought was to enjoin construction of sewer that had since been completed); see also *Oakville Development Corp. v. F.D.I.C.*, 986 F.2d 611, 613 (1st Cir. 1993) (dismissing appeal of order allowing foreclosure to proceed as moot after home had been foreclosed upon and sold); *Railway*

Union No. 2702 v. Western Air Lines, Inc., 854 F.2d 1178, 1178 (9th Cir. 1988) (action seeking to enjoin merger mooted where U.S. Supreme Court lifted conditional stay and merger took place while case was still pending).

B. The Emergency Motion Does Not Comply With The Federal Rules

In addition to the fact that PMW's motion is moot, the Court should deny the motion because it is procedurally deficient.

Federal Rule of Appellate Procedure 8 governs requests for injunctions pending appeal. Under that Rule, a party seeking an order for an injunction while an appeal is pending first "must ordinarily move first in the district court." FRAP 8(a)(1)(C). Such a motion can be made to this Court only if the moving party can show either that (1) "moving first in the district court would be impracticable;" or (2) a motion was made, and "the district court denied the motion or failed to afford the relief requested." FRAP 8(a)(2)(A); *see also* Circuit Rule 27-3(4) ("If the relief sought in the motion was available in the district court . . . , the motion shall state whether all grounds advanced in support thereof in this court were submitted to the district court . . . , and, if not, why the motion should not be remanded or denied.").

Labor Executives Ass'n v. Chesapeake Western Ry., 915 F.2d 116, 118 (4th Cir. 1990) ("An appeal of the denial of an injunction to prohibit an act is rendered moot by the happening of the act").

PMW's motion fails to meet this requirement. PMW has a motion for injunction pending before the trial court, but claims it is impracticable to wait for the district court to rule. Pls.' Mot. at 4. The fact that PMW's motion will not be heard until November 4 is, however, a circumstance of its own making. The district court held oral argument on the parties' cross-motions for summary judgment on October 4, 2011. Prior to that hearing, during the hearing, or in the two weeks prior to October 17 (when the court ruled as promised), PMW could have asked the district court – if it ruled against PMW – to stay its decision pending appeal. It failed to do so. Moreover, after the district court ruled, PMW could have sought expedited relief in the district court (as it did for its motion for temporary restraining order at the outset of this litigation in July 2009, and as it is asking this Court to do), but it failed to do so. For instance, PMW could have requested that the district court hear its motion telephonically without briefing. *See* Local Rules, W.D. Wash. 7(i) ("Upon the request of any party, and with the court's approval, a motion may be heard by telephone without the filing of motion papers."). Simply put, it was not "impracticable" to take these steps, and PMW's failure to do so does not entitle it to the relief it seeks here.

PMW argues that its motion to the district court is futile. Pls.' Mot. at 4. PMW does not provide any citation to support its contention that (a) the trial court is in fact likely to rule against such a motion or (b) PMW's simple belief that the trial court is likely to deny the motion permits it to present the motion to this Court instead. In fact, the law is to the contrary.[5] To the extent PMW premises its futility argument on "the district court allow[ing] the petitions to be released just hours before PMW filed their motion," Pls.' Mot. at 4, PMW does not fairly characterize the timeline. The district court ruled based on the motions then pending – it did not have before it a motion asking that the petitions not be released pending appeal. Petitions were released after the district court ruled and prior to PMW seeking injunctive relief. Had PMW timely asked the district court to stay its decision pending appeal, the district court surely would have given that motion the consideration it deserved. Indeed, during the lawsuit, the district court had allowed the Doe plaintiffs and PMW's witnesses to proceed anonymously over the State and Intervenors'

[5] *In re Montes*, 677 F.2d 415 (5th Cir. 1982) ("It is not an adequate reason for noncompliance with [Rule 8] . . . that it would allegedly be vain to do so because of action taken by district court in another matter"); *see also Coastal Corp. v. Tex. E. Corp.*, 703 F. Supp. 36, 37 (S.D. Tex. 1989) ("Rule 8(a) is not in place to require applicants for a stay to go through the district court as an empty gesture, but rather the rule exists because the district court is the court of first instance, allowing it both to make a record and a decision and to mend its acts, obviating an appeal").

vigorous objections. Thus, any suggestion that the district court will not give due consideration to PMW's pending motion must be rejected.

PMW's motion is deficient for another procedural reason as well. A motion for an injunction to this Court brought under Rule 8(a) is required to include (1) "originals or copies of affidavits or other sworn statements supporting facts subject to dispute" and (2) relevant parts of the record. FRAP 8(a)(2)(B). PMW contends the district court erred in granting the State's and Intervenors' motions for summary judgment. But PMW failed to comply with FRAP 8(a)(2)(B) by providing this Court with the record evidence that was before the district court when it ruled. That record, as the district court concluded, overwhelmingly supported summary judgment dismissing the case. But without that record before it, this Court cannot evaluate PMW's argument that it is likely to prevail on the merits.

In sum, PMW has failed to comply with the basic procedural rules governing the present motion. The Court should deny the motion accordingly.[6]

---

[6] In addition, under Advisory Note 5 to Circuit Rule 27-1, PMW was required to seek opposing counsel's position on its motion and inform this Court of that position. PMW does not do so here. PMW's motion mentions that it notified counsel on October 20, 2011, that it was filing this motion with this Court, but does not suggest that it asked opposing counsel its views. *See* Pls.' Mot. at 4. It did not do so. Indeed, while PMW sent an email to the Intervenors roughly one half hour before filing, notifying them of its intent to

C. PMW Cannot Meet Any Of The Required Factors For Issuance Of A Preliminary Injunction

In seeking a stay pending appeal, PMW must establish four factors: 1) a likelihood of succeeding on the merits; 2) that it is likely to suffer irreparable harm in the absence of preliminary relief; 3) that the balance of equities tips in its favor; and, 4) that an injunction is in the public interest. *Winter v. Natural Res. Def. Council, Inc.,* 555 U.S. 7, 20 (2008). PMW fails to satisfy any of these factors.

1. PMW is unlikely to succeed on the merits of the case.

As stated above, there is no longer a case or controversy. As required by Washington's Public Records Act, the signed petitions were disclosed after the district court issued the decision dissolving the preliminary injunction and granting the State's and Intervenors' motions for summary judgment. Wash. Rev. Code § 42.56.520. The district court order is available on the court's website, and has been widely posted on the internet. Since the case is moot, PMW has no possibility of success on the merits.

Even if the case were not moot, PMW could not show a likelihood of success on the merits. PMW has the burden of establishing that there is "a

---

do so, it neither solicited the Intervenors' views nor waited for them to respond.

reasonable probability that disclosure of the signed petitions will subject the petition signers to threats, harassment, or reprisals from either Government officials or private parties." *Doe v. Reed,* 130 S. Ct. at 2820 (quoting *Buckley v. Valeo,* 424 U.S. 1, 74 (1976)).

PMW incorrectly states that the district court found that its claim is supported by substantial evidence of threats, harassment and reprisals. Pls.' Mot. at 9. In reality, despite the fact that the petitions were signed in public, and PMW had two years to gather evidence of alleged harassment, the district court stated that "no such evidence exists in the record before the Court." Order at 30. The district court properly dismissed PMW's claim, holding that it had "failed to supply sufficient, competent evidence" and that the facts "do not rise to the level of demonstrating that a reasonable probability of threats, harassment, or reprisals exists as to the signers of R-71, now nearly two years after R-71 was submitted to the voters in Washington State." Order at 30, 33.

In reaching its ruling, the district court found that the Supreme Court case law provides alternative bases under which PMW's claim fails. The district court began by considering the highly limited situations in which the Supreme Court has recognized a First Amendment exemption from disclosure. The Supreme Court has suppressed public disclosure only in cases involving a

persecuted, minor party which has demonstrated that disclosure would result in significant threats, harassment, and reprisals that would seriously undermine its members' ability to associate for First Amendment purposes. In each case, the minor party established a likelihood that the state would be unwilling to address the harm.

The seminal case is *NAACP v. Alabama*, 357 U.S. 449 (1958). The NAACP was challenging Alabama's official policy of segregation, in the 1950's. The State required the NAACP to disclose its membership information. The Court held that the NAACP "made an uncontroverted showing that on past occasions revelation of the identity of its rank-and-file members has exposed these members to economic reprisal, loss of employment, threat of physical coercion, and other manifestations of public hostility." *Id.* at 462. Presented with overwhelming evidence of private and state harassment of members of this minor party, the Court held that compelled disclosure was directly related to the right of NAACP members to associate freely. *Id.* at 466.

Similarly significant evidence of harassment of a minor party by the government and the public was addressed in *Brown v. Socialist Workers*, 459 U.S. 87 (1982). The Ohio Socialist Workers Party (SWP) was a minor group of just sixty members, whose unpopular goal was "the abolition of capitalism

and the establishment of a workers' government to achieve socialism." *Id.* at 88. Party members suffered destruction of their property, police harassment of a party candidate, and the firing of shots at the party's office. *Id*. at 99. The FBI interfered with the SWP's activities and planted informants in the tiny group. *Id*. at 100. Numerous party members were fired as a result of their membership. *Id*. Given the party's minor status, and the overwhelming evidence of government and private harassment, the Supreme Court held that application of state disclosure laws would be unconstitutional. *Id.* at 102.

As the district court noted, "'*Brown* and its progeny each involved groups seeking to further ideas historically and pervasively rejected and vilified by both this country's government and its citizens.'" Order at 13, quoting *ProtectMarriage.com v. Bowen,* 599 F. Supp. 2d 1197, 1215 (2009). The petition signers merely agreed that the measure should be placed on the ballot. They did not join PMW or any other organization. Even if PMW could claim group affiliation with the signers, their claim would fail. PMW is a mainstream political organization, not an ostracized minor party. PMW successfully gathered over 130,000 signatures, statewide, on the R-71 petitions. *Doe,* 130 S. Ct. at 2816. They obtained 838,842 votes in the R-71 election, and lost by a fairly narrow margin of 53% to 47%. Losing a close election does not

make PMW a minor party, comparable to the NAACP or Socialist Workers Party. As the district court held, PMW has failed "in all material respects" to establish minor party status. Order at 16.

As the district court recognized, even if PMW were a minor party, the PMW's anecdotal speculation "does not rise to the level or amount of uncontroverted evidence" provided in *NAACP* or *Brown*. Order at 29. Although PMW has had over two years to gather evidence, it was unable to provide evidence that a single petition signer experienced any threats, harassment or reprisals. Order at 29. PMW claims acquiring such evidence would be "an impossibility," prior to release of the names to the public. Pls.' Mot. at 9. In reality, the majority of signatures were collected in highly public locations, such as Walmart and supermarket parking lots. Order at 18-20, 30. The district court found it significant that PMW "solicited R-71 signers to share any experiences that it had with harassment." Order at 28. Yet PMW "has not supplied any evidence to the Court [of harassment] nor informed it that such evidence exists." *Id.* at 29.

In addition to a complete lack of evidence regarding petition signers, the district court noted that for over two years, the State has publicly disclosed the names and addresses of 857 of PMW's campaign contributors. Order at 30.

Although PMW had ample time to contact the donors, it offered no evidence that any of them were harassed or threatened. Order at 30. As the district court recognized, the Supreme Court rejected a similar as-applied challenge in *Citizens United*. *Citizens United v. Fed. Elec. Comm'n*, 130 U.S. 876 (2010). Order at 30. Like PMW, Citizens United had disclosed its donors for years, but was unable to identify any instance of harassment. Order at 30-31, citing *Citizens United*, 130 S. Ct. at 916.

To the extent PMW offered any shred of evidence, it pertained not to the signers of the petition, or similarly situated donors, but rather to the prominent sponsors and public spokespersons that sought to publicize their support of the Reject R-71 campaign through media appearances, public rallies, and public demonstrations. Evidence of harassment unrelated to the petition signers is not relevant. However, as the district court's recitation of the deposition testimony shows, even if evidence regarding these highly public individuals were relevant, the scant evidence offered was insufficient to show a reasonable probability of threats, harassment and reprisals two years after the conclusion of the election.

Finally, the district court properly held that PMW's claim failed because it cannot establish a reasonable probability of serious and widespread

harassment "the State is unwilling or unable to control." *Doe,* 130 S. Ct. at 2829 (Sotomayor, J., concurring, joined by Breyer, J., Stevens, J.), 2831 (Stevens, J., concurring), and 2832, 2837 (Scalia, J., concurring). As the district court order reflects, the minimal testimony supplied by PMW "stated either that police efforts to mitigate reported incidents was sufficient or unnecessary." Order at 32. This stands in sharp contrast to the pervasive evidence of government harassment presented in *NAACP* and *Brown.*

PMW failed to offer any relevant evidence to meet its burden before the district court. PMW has little likelihood of success on the merits, and this factor alone is sufficient basis for denial of the requested stay.

2. PMW will not suffer irreparable harm if a preliminary injunction is denied.

PMW claims that if it was to prevail on appeal, the "catastrophic damage" caused by disclosure of the signed petitions and individuals named in the district court order could not be undone. Pls.' Mot. at 10. No citation to the record is offered to support this dramatic claim. As the district court recognized, PMW's claim is "based on a few experiences of what [it] believes constitute harassment or threats, the majority of which are only connected to R-71 by speculation." Order at 32.

PMW's unsupported speculation is insufficient. As the Supreme Court stressed in *Winter*, the "'possibility' standard is too lenient." *Winter*, 129 S. Ct. at 375. The standard enunciated by the Supreme Court "requires plaintiffs seeking preliminary relief to demonstrate that irreparable injury is *likely* in the absence of an injunction. *Id.* (emphasis added.) PMW expresses concern, but provides no examples of actual or threatened irreparable harm to the persons that signed the R-71 petitions, or contributed to the campaign.

3. An injunction is directly contrary to the public interest in open government.

As the Supreme Court emphasized in *Doe v. Reed,* the State's interest in disclosure is "undoubtedly important." *Doe*, 130 S. Ct. at 2819. The State has a particularly strong interest in disclosure as a means of allowing citizens to root out fraud, which "'drives honest citizens out of the democratic process and breeds distrust of our government.'" *Doe,* 130 S. Ct. at 2819, quoting *Purcell v. Gonzalez,* 549 U.S. 1, 4 (2006).

Washington's concern with the integrity of the electoral process did not end with the election on R-71. This Court has recognized that ensuring the integrity of the state's election system is a matter of continuous concern. *E.g., Porter v. Bowen,* 496 F.3d 1009, 1013 (9th Cir. 2007) (review of legality of Secretary of State's actions after election not moot, because State

could act similarly in future elections). Since PMW is still registered as a PAC in Washington, investigating possible fraudulent behavior by PMW, and the State's response to such behavior, continues to be a matter of public interest.

As the Washington State Supreme Court has explained, the "purpose of the [Public Records Act] is nothing less than the preservation of the most central tenets of representative government, namely, the sovereignty of the people and the accountability to the people of public officials and institutions." *Progressive Animal Welfare Soc'y v. Univ. of Wash.*, 884 P.2d 592, 597 (Wash. 1994) (citing Wash. Rev. Code § 42.17.251 (1994), recodified Wash. Rev. Code § 42.56.030 (2006)).

4. The balance of equities tips firmly against impeding open government.

The balance of equities clearly tips in favor of the State and public interest in open government. There is no longer any question regarding the lack of a plausible risk of irreparable harm. The Public Disclosure Commission has posted information on the internet regarding 857 donations to Protect Marriage Washington. The names, addresses, contribution amounts, as well as some of the donors' occupations and employers, are easily searched on the

Commission's website. Although this information has been in the public domain for a year, PMW produced no evidence of irreparable harm.

In contrast to the Plaintiffs' dwindling interest in secrecy, the Supreme Court has recognized that the State has a "particularly strong" interest in preserving the integrity of the electoral system by promoting systemic transparency and accountability. *Doe,* 130 S. Ct. at 2819. "A State indisputably has a compelling interest in preserving the integrity of its election process." *Eu v. San Francisco Cnty. Democratic Cent. Comm*., 489 U.S. 214, 231 (1989), citing *Rosario v. Rockefeller*, 410 U.S. 752, 761 (1973). Though the election has concluded, and public continues to have a significant interest in determining whether its public servants properly carried out the law.

V. CONCLUSION

The State Defendants, and Intervenors Washington Families Standing Together and the Washington Coalition for Open Government, respectfully request that PMW's motion for injunction be denied.

RESPECTFULLY SUBMITTED this 21st day of October, 2011.

ROBERT M. MCKENNA
Attorney General
s/
Anne E. Egeler, WSBA # 20258
Deputy Solicitor General

s/

Kevin Hamilton, WSBA #15648
Perkins Coie LLP
Washington Families Standing Together

s/

Leslie Weatherhead, WSBA #11207
Witherspoon Kelley
Washington Coalition for Open Government.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Rules