

The Honorable John C. Coughenour

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON STATE REPUBLICAN
PARTY, et al.,

Plaintiffs,

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE, et al.,

Plaintiff Intervenors,

and

LIBERTARIAN PARTY OF WASHINGTON
STATE, et al.,

Plaintiff Intervenors,

v.

STATE OF WASHINGTON, et al.,

Defendant Intervenors,

and

WASHINGTON STATE GRANGE,

Defendant Intervenor.

No. CV05-0927 JCC

DECLARATION OF DAVID T.
MCDONALD IN SUPPORT OF
RESPONSE OF WASHINGTON
STATE DEMOCRATIC PARTY TO
STATE'S MOTION TO RECOVER
ATTORNEY FEES AND COSTS

I, David T. McDonald, hereby declare as follows:

DECLARATION IN SUPPORT OF RESPONSE OF
WASHINGTON STATE DEMOCRATIC PARTY TO
STATE'S MOTION TO RECOVER ATTORNEY
FEES AND COSTS
CV05-0927 JCC

CERTIFICATE OF SERVICE

I hereby certify that on December 8, 2008, I caused to be electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

James Kendrick Pharris

Thomas Ahearne

Richard Dale Shepard

John James White, Jr.

s/Alex Wagner

David T. McDonald, WSBA #5260

Alex Wagner, WSBA # 36856

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Attorneys for Plaintiffs in Intervention,
Washington State Democratic Party and
Dwight Pelz, Chair

DECLARATION IN SUPPORT OF RESPONSE OF
WASHINGTON STATE DEMOCRATIC PARTY TO
STATE'S MOTION TO RECOVER ATTORNEY
FEES AND COSTS
CV05-0927 JCC

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EXHIBIT A

From: Pharris, James (ATG) [mailto:JamesP@ATG.WA.GOV]
Sent: Friday, September 15, 2006 10:28 AM
To: white@lfa-law.com; McDonald, David (SEA); richard@shepardlawoffice.com
Cc: Even, Jeff (ATG)
Subject: Republican Party v. Logan - Ninth Circuit fee and cost issues

The following is communicated for settlement purpose only:

After consultation with the Secretary of State's office and with some of you, I am prepared to make the following offer of compromise on the claims for costs and attorneys relating to the Ninth Circuit Appeal in this case:

1. The state will agree to compromise fees and costs relating to the Ninth Circuit appeal. Since there will likely be further proceedings, fees and costs at the trial court level will be deferred for later discussion. We do hope to arrive at a reasonable compromise on those at a later date.
2. The state will pay in full all court costs which the prevailing parties could reasonably claim under the applicable court rules.
3. The state will pay 90% of all attorney fees claimed by each respondent as set forth in previous correspondence among the parties.
4. The state understands that this compromise is based primarily upon the state's willingness to make prompt payment, and will undertake to process payment as soon as the claimed amounts for each party are definitely known.

Having agreed to pay 100% of costs and 90% of fees, I'm having trouble sorting out the numbers. Richard's submission (confirmed by a phone conversation) appears to include both fees and costs in his total claim of \$17,965.32. If I read his invoices correctly, the breakdown is \$1622.27 in costs and \$16,343.05 in fees. That would result in a payment of \$1622.27 in costs and \$14,708.75 in fees, or a total of \$16,331.02.

The material I have from David and John appears to relate exclusively to fees, and the numbers don't include costs. I have a memory of seeing cost bills from one or both of you, but a quick search has not turned them up.

Relying on the two of you to retrieve the correct numbers makes more sense (for me that is) than continuing to search for them. Could you let us know the breakdown, and either you can do the math or I can.

If this compromise is agreeable, I suppose it should be incorporated in an agreed order. John, once we have all the numbers, could you draft such an order? These usually come from the prevailing party, but I'm not unwilling to do the work if you want me to.

As soon as we have definite numbers, I'll start the payment process. Jeff did this last time, and I don't remember all the steps, but we'll do everything we can to expedite it.

Jim

EXHIBIT B

From: McDonald, David (SEA)
Sent: Friday, September 15, 2006 2:20 PM
To: 'Pharris, James (ATG)'; white@lfa-law.com; richard@shepardlawoffice.com
Cc: Even, Jeff (ATG)
Subject: RE: Republican Party v. Logan - Ninth Circuit fee and cost issues

The Democratic Party agrees to this compromise of its current Ninth Circuit Fee and Cost Claims. We understand this settlement will be final as to our claims for attorneys' fees and costs for the Ninth Circuit proceedings related to the appeal of Judge Zilly's July, 2005 decision through the date of the settlement, irrespective of further proceedings in the case. Jim, let me know what additional information or documentation you need from us.

Thank you and your client for your consideration in this matter.