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The Honorable JOHN C. COUGHENOUR

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

Human Life of Washington, Inc.,

Plaintiff,

v.

Chair Bill Brumsickle, Vice Chair Ken Schellberg, Secretary Dave Seabrook, Jane Noland, and Jim Clements, in Their Official Capacities as Officers and Members of the Washington State Public Disclosure Commission, Rob McKenna, in His Official Capacity as Washington Attorney General, and Dan Satterberg, in His Official Capacity as King County Prosecuting Attorney,

Defendants.

NO. 08-CV-00590-JCC

ANSWER OF STATE DEFENDANTS BRUMSICKLE, SCHELLBERG, SEABROOK, NOLAND, CLEMENTS AND MCKENNA, AND AFFIRMATIVE DEFENSES

Defendants Bill Brumsickle, Ken Schellberg, Dave Seabrook, Jane Noland, Jim Clements and Rob McKenna (State Defendants) hereby answer the Complaint. Except as hereinafter expressly admitted, qualified, or otherwise admitted, State Defendants specifically deny each and every allegation, statement, matter and thing contained in the Complaint. State Defendants respond to the numbered allegations in the Complaint as follows:

I. INTRODUCTION

The "Introduction" to the Complaint (paragraphs 1 – 10) purports to be a paraphrase of case law by Plaintiff Human Life of Washington (HLW), selected excerpts from case law, a

1 description of Plaintiff's view of the law and Plaintiff's conclusions of law, and Plaintiff's
2 characterization of its own Complaint. This "Introduction" amounts to legal argument and does
3 not require an answer. To the extent an answer is required, the State Defendants answer the
4 allegations as follows and further deny that the Introduction is an accurate summary of the law.

5 1. In response to Paragraph 1, Paragraph 1 consists of legal argument to which no
6 answer is required. To the extent an answer is required, State Defendants admit Plaintiff HLW
7 opposed an initiative directed to the voters in Washington State in 1991 (Initiative 119) (I-119),
8 and made contributions and expenditures to oppose that initiative directly or through its affiliated
9 political committee Human Life PAC (HL PAC). State Defendants deny the remaining
10 allegations.

11 2. In response to Paragraph 2, Paragraph 2 consists of legal argument to which no
12 answer is required. To the extent an answer is required, State Defendants deny that the selected
13 excerpt of the court decision fully reflects the referenced decision or other relevant law. State
14 Defendants deny the remaining allegations.

15 3. In response to Paragraph 3, Paragraph 3 consists of legal argument to which no
16 answer is required. To the extent an answer is required, State Defendants deny that the selected
17 excerpt of the court decision fully reflects the referenced decision or other relevant law. State
18 Defendants deny the remaining allegations.

19 4. In response to Paragraph 4, Paragraph 4 consists of legal argument to which no
20 answer is required. To the extent an answer is required, State Defendants admit that a proposed
21 initiative measure to the people, Initiative 1000 (I-1000), was filed with the Washington Secretary
22 of State on January 9, 2008. State Defendants deny the remaining allegations.

23 5. In response to Paragraph 5, Paragraph 5 consists of legal argument and Plaintiff's
24 characterization of its Complaint and for which no answer is required. To the extent an answer is
25 required, State Defendants deny the allegations.
26

1 6. In response to Paragraph 6, Paragraph 6 consists of legal argument to which no
2 answer is required. To the extent an answer is required, State Defendants deny that the selected
3 excerpt of the court decision fully reflects the referenced decision or other relevant law. State
4 Defendants deny the remaining allegations.

5 7. In response to Paragraph 7, Paragraph 7 consists of legal argument to which no
6 answer is required. To the extent an answer is required, State Defendants deny that the selected
7 excerpt of the court decision fully reflects the referenced decision or other relevant law. State
8 Defendants deny the remaining allegations.

9 8. In response to Paragraph 8, Paragraph 8 consists of legal argument to which no
10 answer is required. To the extent an answer is required, State Defendants deny that the selected
11 excerpt of the court decision fully reflects the referenced decision or other relevant law. State
12 Defendants deny the remaining allegations.

13 9. In response to Paragraph 9, Paragraph 9 consists of legal argument to which no
14 answer is required. To the extent an answer is required, State Defendants deny that the selected
15 excerpt of the court decision fully reflects the referenced decision or other relevant law. State
16 Defendants deny the remaining allegations.

17 10. In response to Paragraph 10, Paragraph 10 consists of legal argument and
18 Plaintiff's characterization of its Complaint and for which no answer is required. To the extent an
19 answer is required, State Defendants deny that the selected excerpt of the court decision fully
20 reflects the referenced decision or other relevant law. State Defendants deny that the references to
21 Washington State statutes in Chapter 42.17 RCW fully or accurately reflect the all the relevant
22 law or its implementation. State Defendants admit RCW 42.17.365, RCW 42.17.390 and
23 RCW 42.17.400 are some of the statutes contained in Chapter 42.17 RCW, and provide for
24 enforcement. State Defendants admit that failure to comply with Chapter 42.17 RCW and the
25 rules promulgated under it can result in an enforcement action under Chapter 42.17 RCW, after
26 investigation and depending upon the facts. State Defendants lack sufficient information in order

1 to form a belief regarding Plaintiff's intent to not comply with state laws and regulations, and
2 therefore deny the same. State Defendants deny the remaining allegations.

3 **II. JURISDICTION AND VENUE**

4 11. In response to Paragraph 11, State Defendants admit Plaintiff has filed this action
5 under 42 U.S.C. § 1983, and it purports to raise issues under the First and Fourteenth
6 Amendments of the Constitution of the United States. State Defendants deny the remaining
7 allegations.

8 12. In response to Paragraph 12, State Defendants assert that the Tacoma Division of
9 this Court was the proper venue under Local Civil Rule 5(e) in which this action should have been
10 filed. However, State Defendants waive any objections to venue in the Seattle Division.

11 **III. PARTIES**

12 13. In response to Paragraph 13, the State Defendants admit that Plaintiff has filed
13 incorporation documents with the Washington Secretary of State, but lack sufficient information
14 to admit or deny whether it is a "nonstock, ideological" corporation "recognized by the Internal
15 Revenue Service as a nonprofit under 26 U.S.C. §501(c)(4)" and therefore deny the same. State
16 Defendants assert another corporate entity, Human Life of Washington Education Foundation, has
17 filed incorporation with the Washington Secretary of State. State Defendants admit that the
18 Plaintiff has described itself as a "state affiliate" of the National Right to Life Committee but State
19 Defendants lack sufficient information concerning affiliation requirements of the National Right
20 to Life Committee and therefore deny the same. State Defendants admit that Plaintiff is currently
21 using the address of 14400 Bel-Red Road, #207, Bellevue, Washington 98007. State Defendants
22 admit there is a website at www.humanlife.net that describes itself as the website of Human Life
23 of Washington. State Defendants lack sufficient information to form a belief regarding Plaintiff's
24 mission statement and therefore deny the same. Plaintiff's reference to the court decision is legal
25 argument and contains Plaintiff's legal conclusions and therefore no answer to this allegation is
26 required. If an answer is required to the legal argument and legal conclusions, State Defendants

1 deny that the reference to the court decision fully or accurately reflects the decision or relevant
2 law, and deny Plaintiff's characterization of the law. State Defendants lack sufficient information
3 in order to form a belief in order to admit or deny the remaining allegations and therefore deny
4 them. State Defendants deny that Plaintiff is "fully independent" of any political committee.
5 State Defendants deny any remaining allegations in Paragraph 13.

6 14. In response to Paragraph 14, State Defendants admit to the current list of members
7 of the Washington State Public Disclosure Commission and that the list is available on the PDC's
8 website. State Defendants deny Plaintiff's characterization of the PDC as having enforcement
9 authority over an "election law scheme." State Defendants assert that the PDC's enforcement
10 authority concerning state political campaigns, lobbying, and personal financial affairs disclosures
11 is described in Chapter 42.17 RCW. State Defendants deny the remaining allegations.

12 15. In response to Paragraph 15, State Defendants admit that Robert M. McKenna is
13 the Washington State Attorney General and his biography is listed on the Attorney General's
14 Office website. State Defendants deny Plaintiff's characterization of his enforcement authority as
15 that over an "election law scheme." State Defendants assert that the Attorney General's Office
16 has enforcement authority as described in RCW 42.17.400. State Defendants deny the remaining
17 allegations.

18 16. In response to Paragraph 16, State Defendants admit Dan Satterberg is the
19 Prosecuting Attorney for King County. State Defendants deny Plaintiff's characterization of his
20 enforcement authority as one over an "election law scheme." State Defendants assert that a
21 prosecutor has enforcement authority as described in RCW 42.17.400. State Defendants deny the
22 remaining allegations.

23 **IV. FACTS**

24 17. In response to Paragraph 17, State Defendants admit that in 1991, a measure that
25 originated as an initiative to the Legislature was on the ballot in Washington State, namely,
26 Initiative 119 (I-119), and assert it had the title "Shall adult patients who are in a medically

1 terminal condition be permitted to request and receive from a physician aid-in-dying?”
2 Regarding Plaintiff’s activities, State Defendants assert that Plaintiff was reported in media stories
3 in 1991 as an opponent of I-119. State Defendants assert that Plaintiff made contributions to a
4 political committee opposing the initiative (Vote No 119). State Defendants assert that Plaintiff
5 had formed a political committee (Human Life PAC) (HL PAC) which engaged in campaign
6 activities to support or oppose candidates and ballot measures, and which made contributions to
7 oppose I-119. State Defendants assert HL PAC has filed campaign contribution and expenditure
8 reports with the PDC, and with the Federal Election Commission. State Defendants assert that
9 Plaintiff filed lobbying employer reports with the PDC, including in 1991, describing that political
10 contributions to candidates, their committees, or political committees were also made by HL
11 PAC. State Defendants assert that Plaintiff has filed lobbying employer reports with the PDC
12 showing contributions to a political committee with a title of “Committee to Stop Infanticide.”
13 Plaintiff’s reference to the court decision is legal argument and legal conclusions and therefore no
14 answer to this allegation is required. If an answer is required to the legal argument and legal
15 conclusions, State Defendants deny that the reference to the court decision fully or accurately
16 reflects the decision or relevant law, and deny Plaintiff’s characterization of the law. State
17 Defendants lack sufficient information in order to form a belief concerning the remaining
18 allegations, and therefore deny the same.

19 18. In response to Paragraph 18, State Defendants admit that two state initiatives [one
20 in 1991 (I-119), and one in 2008 (I-1000)] and at least one other bill before the State Legislature
21 (Senate Bill 6943 introduced in 2006) have sought votes by the people or their representatives in
22 the Legislature, or both, to authorize the administration of medications to end a competent adult
23 person’s life. Regarding activities in 1991, State Defendants assert the initiative was often
24 referred to in 1991 by the media and the public as the “Death With Dignity” or “Right to Die” (or
25 other terms) initiative. State Defendants assert the measure was certified to the Legislature on
26 February 8, 1991. State Defendants assert the Legislature failed to take action, and as provided

1 by the state constitution, the measure was submitted to the voters at the November 5, 1991
2 general election. State Defendants assert that I-119 resulted in a high level of campaign
3 contributions and expenditures for that time period, and contributions from contributors inside
4 and outside of Washington State. State Defendants assert that, according to PDC reports
5 related to I-119, the total reported was \$1,734,100 in expenditures for the initiative, and
6 \$516,562 against. In addition, there was a total of \$1,072,794 of expenditures spent against
7 both I-119 and I-120 (an abortion initiative). State Defendants assert that the media and the
8 public used reports filed with the PDC to follow the money being received and spent on efforts
9 to support or oppose I-119. State Defendants admit I-119 was rejected by the voters, and assert
10 the following vote total: For - 701,808 Against - 810,623. Regarding Plaintiff's activities, State
11 Defendants assert that Plaintiff was reported in media stories in 1991 as an opponent of I-119.
12 State Defendants assert that Plaintiff made contributions to a political committee opposing the
13 initiative (Vote No 119). State Defendants assert that Plaintiff has formed a political committee
14 (HL PAC) which engaged in campaign activities to support or oppose candidates and ballot
15 measures. State Defendants assert that Plaintiff, either directly or through its HL PAC, co-
16 sponsored political advertising to defeat I-119. State Defendants lack sufficient information in
17 order to form a belief regarding the remaining allegations, and therefore deny the same.

18 19. In response to Paragraph 19, regarding activities in 2008, State Defendants admit
19 that a proposed initiative measure to the people, I-1000, was filed with the Washington Secretary
20 of State on January 9, 2008, and that according to the Secretary of State's website: "Initiative
21 Measure No. 1000 concerns allowing certain terminally ill competent adults to obtain lethal
22 prescriptions." State Defendants admit Booth Gardner, a former Washington State Governor,
23 is listed as the initiative sponsor. State Defendants admit the text of I-1000 is available on the
24 website of the Washington Secretary of State. State Defendants admit that a political
25 committee, formerly known as the "It's My Decision Committee" filed a Political Committee
26 Registration form (C1pc) with the PDC on August 23, 2007, stating it was supporting "an

1 Initiative to the People of Washington Regarding Care and Compassion in Dying” with the
2 ballot measure number to be determined. State Defendants assert that the committee changed
3 its name in an amended Political Committee Registration form to “Yes on I-1000” in February
4 2008 (filed February 6, 2008) stating it is a ballot committee supporting I-1000. State
5 Defendants admit there is a website concerning Yes on I-1000 at www.yeson1000.org stating it
6 is paid for by the Yes on I-1000 committee. State Defendants admit the Yes on I-1000
7 committee is filing campaign disclosure reports with the PDC, which are available on the
8 PDC’s website. State Defendants admit I-1000 is also referred to as the “Washington Death
9 With Dignity” initiative, act or measure. State Defendants assert that some describe I-1000 as
10 the “physician assisted suicide” or “doctor assisted suicide” or “assisted suicide” initiative, act
11 or measure. State Defendants assert another political committee, the Coalition Against
12 Assisted Suicide (formerly known as the People Against State Assisted Suicide) has filed
13 Political Committee Registration forms with the PDC, on January 4, 2008, and an amended
14 form with the name change on January 8, 2008, describing it as a political committee opposed
15 to I-1000. State Defendants assert the Coalition Against Assisted Suicide is filing disclosure
16 reports with the PDC. State Defendants admit the next general election in Washington State is
17 November 4, 2008. State Defendants admit qualifying signatures for initiatives to the people
18 are due by 5:00 p.m. on July 3, 2008. State Defendants deny the remaining allegations,
19 including Plaintiff’s characterization that it will lose its ability to speak if it discloses to the
20 public information required by state laws and rules.

21 20. In response to Paragraph 20, State Defendants admit there was litigation in the
22 Thurston County Superior Court concerning the ballot title of I-1000. State Defendants deny the
23 described caption and cause number are accurate and assert the caption and cause numbers are:
24 *Coalition Against Assisted Suicide, et al. v. State of Washington, et al.*, Thurston County Superior
25 Court No. 08-2-00265-6. State Defendants assert the order states: “IT IS ORDERED that the
26 challenge to the ballot title for Initiative Measure No. 1000 is granted. The ballot title and

1 summary are revised pursuant to the attached language.” State Defendants admit the
2 remaining allegations.

3 21. In response to Paragraph 21, regarding public activities in 2008, State Defendants
4 admit I-1000 proponents are currently in the process of gathering signatures in sufficient number
5 to place the initiative on the November 2008 state general election ballot so state voters may vote
6 for or against the measure. State Defendants assert political committees have been formed in
7 2007-2008 to support and to oppose I-1000. State Defendants assert media stories in 2008 have
8 reported on I-1000, and based upon PDC records, media have reported that contributions as of
9 April 15, 2008, have arrived from contributors from all 50 states in the amount of \$900,000
10 collected by supporters, and \$50,000 by opponents. State Defendants lack sufficient information
11 in order to form a belief as to Plaintiff’s intended actions so as to admit or deny them, and
12 therefore deny the same. State Defendants deny the remaining allegations.

13 22. In response to Paragraph 22, State Defendants lack sufficient information in order
14 to form a belief regarding the allegations in this paragraph and therefore deny the same.

15 23. In response to Paragraph 23, State Defendants lack sufficient information in order
16 to form a belief regarding the allegations in this paragraph and therefore deny the same.

17 24. In response to Paragraph 24, State Defendants lack sufficient information in order
18 to form a belief regarding the allegations in this paragraph and therefore deny the same.

19 25. In response to Paragraph 25, State Defendants lack sufficient information
20 regarding Plaintiff’s intentions or planned future activities in order to admit or deny them, and
21 therefore deny the same. Plaintiff’s reference to the court decision is legal argument and legal
22 conclusions and therefore no answer to this allegation is required. If an answer is required to the
23 legal argument and legal conclusions, State Defendants deny that the reference to the court
24 decision fully or accurately reflects the decision or relevant law, and deny Plaintiff’s
25 characterization of the law. State Defendants lack sufficient information in order to form a belief
26 concerning the remaining allegations, and therefore deny the same.

1 26. In response to Paragraph 26, State Defendants admit that I-1000 was filed with the
2 Washington Secretary of State on January 9, 2008. State Defendants admit that beginning in
3 August 2007, political committees were formed supporting and opposing the measure, signature-
4 gathering began, media stories reported on I-1000 including contributions being made to the
5 committees, and these are examples of activities occurring to focus public attention on I-1000.
6 State Defendants deny the remaining allegations.

7 27. In response to Paragraph 27, State Defendants deny Plaintiff's characterization of
8 Exhibit 2 and its legal characterization of the term "express advocacy." State Defendants lack
9 sufficient information in order to form a belief regarding Plaintiff's intentions so as to admit or
10 deny them, and therefore deny the same. State Defendants deny the remaining allegations.

11 28. In response to Paragraph 28, State Defendants deny Plaintiff's characterization of
12 Exhibit 3 and its legal characterization of the term "express advocacy." State Defendants lack
13 sufficient information in order to form a belief regarding Plaintiff's intentions so as to admit or
14 deny them, and therefore deny the same. State Defendants deny the remaining allegations.

15 29. In response to Paragraph 29, State Defendants deny Plaintiff's characterization of
16 Exhibit 4 and its legal characterization of the term "express advocacy." State Defendants lack
17 sufficient information in order to form a belief regarding Plaintiff's intentions so as to admit or
18 deny them, and therefore deny the same. State Defendants deny the threshold in RCW 42.17.103
19 is "in excess of \$1,000." State Defendants deny the remaining allegations.

20 30. In response to Paragraph 30, State Defendants lack sufficient information in order
21 to form a belief as to Plaintiff's coordination intentions or efforts, or others' intentions or efforts to
22 coordinate with Plaintiff, so as to admit or deny them, and therefore deny the same. State
23 Defendants admit RCW 42.17.020(15)(a)(ii) and WAC 390-05-210 address coordinated
24 contributions. State Defendants deny Plaintiff's characterization of the letter, phone script and
25 ads, and deny the remaining allegations.
26

1 31. In response to Paragraph 31, State Defendants lack sufficient information in order
2 to form a belief in order to admit or deny Plaintiff's budget, yearly expenditures or anticipated
3 expenditures, or future expenditures, and therefore deny the same. State Defendants deny the
4 remaining allegations.

5 32. In response to Paragraph 32, State Defendants lack sufficient information in order
6 to form a belief in order to admit or deny Plaintiff's status as a "membership organization" and
7 therefore deny the same. State Defendants admit RCW 42.17.100 addresses independent
8 expenditures, but deny the excerpt is a full description of that statute. State Defendants deny the
9 remaining allegations.

10 33. In response to Paragraph 33, State Defendants lack sufficient information in order
11 to form a belief regarding Plaintiff's intentions or future events so as to admit or deny them, and
12 therefore deny the same. State Defendants deny the characterization of Plaintiff's 2008 activities
13 and deny the remaining allegations.

14 34. In response to Paragraph 34, State Defendants lack sufficient information in order
15 to form a belief regarding Plaintiff's "fears" so as to admit or deny them, and therefore deny the
16 same. State Defendants assert Plaintiff has formed a political committee, HL PAC. State
17 Defendants admit that failure to comply with Chapter 42.17 RCW and the rules promulgated
18 under it can result in an enforcement action under Chapter 42.17 RCW, after investigation and
19 depending upon the facts. State Defendants deny the remaining allegations.

20 35. In response to Paragraph 35, State Defendants lack sufficient information in order
21 to form a belief regarding Plaintiff's "fears" so as to admit or deny them, and therefore deny the
22 same. State Defendants admit that failure to comply with Chapter 42.17 RCW and the rules
23 promulgated under it can result in an enforcement action under Chapter 42.17 RCW, after
24 investigation and depending upon the facts. State Defendants deny the remaining allegations.

25 36. In response to Paragraph 36, State Defendants lack sufficient information in order
26 to form a belief as to Plaintiff's "fears" so as to admit or deny them and therefore deny the same.

1 State Defendants admit that failure to comply with Chapter 42.17 RCW and the rules promulgated
2 under it can result in an enforcement action under Chapter 42.17 RCW, after investigation and
3 depending upon the facts. State Defendants deny the remaining allegations.

4 37. In response to Paragraph 37, State Defendants lack sufficient information in order
5 to form a belief as to Plaintiff's "fears" and to admit or deny them, therefore deny the same. State
6 Defendants admit that failure to comply with Chapter 42.17 RCW and the rules promulgated
7 under it can result in an enforcement action under Chapter 42.17 RCW, after investigation and
8 depending upon the facts. State Defendants deny the remaining allegations.

9 38. In response to Paragraph 38, State Defendants lack sufficient information in order
10 to form a belief as to Plaintiff's "fears" so as to admit or deny them and therefore deny the same.
11 State Defendants assert that paragraph 38 consists of legal argument and conclusions and as such
12 no answer is required. If an answer is required, State Defendants deny the remaining allegations.

13 39. In response to Paragraph 39, State Defendants assert that the PDC may issue an
14 advisory opinion, and therefore, deny that HLW has no means to seek an advisory opinion from
15 the PDC. State Defendants admit HLW is not an authorized requester of formal Attorney General
16 Opinions.

17 40. In response to Paragraph 40, State Defendants assert that paragraph 40 consists of
18 legal argument and conclusions and as such no answer is required. If an answer is required, State
19 Defendants deny the allegations.

20 **Count 1- Political Committee**

21 41. In response to Paragraph 41, State Defendants restate and incorporate by reference
22 all of their responses to the allegations in the paragraphs referenced above.

23 42. Paragraph 42 is Plaintiff's characterization of its own Complaint and contains
24 legal conclusions, which do not require an answer. To the extent an answer is required, State
25 Defendants admit Plaintiff is challenging the definition of political committee. State Defendants
26

1 admit the existence of the referenced cases and Attorney General Opinion, but deny that
2 Plaintiff's allegations fully describe or accurately cite to the law.

3 43. In response to Paragraph 43, State Defendants admit RCW 42.17.020(39) contains
4 the definition of "political committee."

5 44. In response to Paragraph 44, State Defendants admit that state law at
6 RCW 42.17.040 requires political committees to file a "statement of organization" [Political
7 Committee Registration (Form C1pc)]. State Defendants admit that RCW 42.17.080 requires that
8 political committees file regular reports of campaign contributions and expenditures (C3 and C4
9 reports and schedules) according to set time periods in RCW 42.17.080, but deny it is for all
10 contributions, deny reports are required for activities unrelated to campaign contributions and
11 expenditures, and deny the reporting schedule is as alleged by Plaintiff. State Defendants admit
12 RCW 42.17.060 requires campaign contributions to be deposited in an account for that purpose.
13 State Defendants admit that if contributions exceeding \$100 are received, the contributor's name,
14 occupation and employer address is to be disclosed, and assert the references are to WAC 390-16-
15 034 in addition to state law at RCW 42.17.090. State Defendants deny Plaintiff's characterization
16 of RCW 42.17.060 and admit that, under RCW 42.17.060, accumulated unidentified
17 contributions, other than those made by persons whose names must be maintained on a
18 separate and private list by a political committee's treasurer pursuant to RCW 42.17.090(1)(b),
19 which total in excess of one percent of the total accumulated contributions received in the
20 current calendar year or three hundred dollars (whichever is more), may not be deposited, used,
21 or expended, but shall be returned to the donor, if the donor's identity can be ascertained. State
22 Defendants admit RCW 42.17.080(5) provides for a public inspection of campaign books and
23 requirement that the books remain current within one day during the eight days prior to the
24 election. State Defendants assert the public inspection during the designated hours is by
25 appointment. State Defendants admit Chapter 42.17 RCW authorizes the PDC to conduct
26 audits of political committees. State Defendants assert that the audit role is referenced in the

1 current (2008) Political Committee Campaign Disclosure Manual which is available on the
2 PDC's website. State Defendants deny the excerpted quote from the prior Manual is a full
3 quotation. State Defendants deny the remaining allegations.

4 45. Paragraph 45 contains Plaintiff's references to court decisions and Plaintiff's legal
5 conclusions and is legal argument. Therefore, no answer is required. If an answer is required to
6 the legal argument and legal conclusions, State Defendants deny that the reference to the court
7 decision fully or accurately reflects the decision or relevant law, and deny Plaintiff's
8 characterization of the law. State Defendants deny the remaining allegations.

9 46. In response to Paragraph 46, State Defendants admit PDC Interpretation 07-02 is
10 on the PDC's website and deny the remaining allegations.

11 47. In response to Paragraph 47, State Defendants assert that paragraph 47 consists of
12 legal argument and conclusions and as such no answer is required. To the extent an answer is
13 required, State Defendants deny the same. State Defendants deny the remaining allegations.

14 48. In response to Paragraph 48, State Defendants assert that paragraph 48 consists of
15 legal argument and conclusions and as such no answer is required. To the extent an answer is
16 required, State Defendants deny the same. State Defendants deny the remaining allegations.

17 49. In response to Paragraph 49, State Defendants assert that paragraph 49 consists of
18 legal argument and conclusions and as such no answer is required. To the extent an answer is
19 required, State Defendants deny the same. State Defendants deny the remaining allegations.

20 50. In response to Paragraph 50, State Defendants assert that paragraph 50 consists of
21 legal argument and conclusions and as such no answer is required. To the extent an answer is
22 required, State Defendants deny the same. State Defendants deny the remaining allegations.

23 **Count 2 – Independent Expenditure**

24 51. In response to Paragraph 51, State Defendants restate and incorporate by reference
25 all of the responses to the allegations referenced in the paragraphs above.
26

1 52. In response to Paragraph 52, State Defendants admit Plaintiff is challenging the
2 constitutionality of RCW 42.17.100(1) and that the statute applies to ballot propositions. State
3 Defendants deny the statute reads as alleged in Paragraph 52, due to Plaintiff's added emphasis.
4 State Defendants deny the remaining allegations.

5 53. In response to Paragraph 53, State Defendants admit that RCW 42.17.100 requires
6 reporting of independent expenditures within five days of making the independent expenditure as
7 further provided in RCW 42.17.100(2) by persons not otherwise reporting (political committees
8 otherwise report). State Defendants admit RCW 42.17.103 provides for reporting of political
9 advertising that qualifies as an independent expenditure and as specified in RCW 42.17.103
10 (persons spending \$1,000 on political advertising within 21 days of an election are to file a C6
11 report within 24 hours) but deny it also requires reporting of this expenditure under
12 RCW 42.17.100. State Defendants admit RCW 42.17.550 provides for reporting to the county
13 election officer of independent expenditure mailings of 1,000 identical or nearly identical
14 cumulative pieces of political advertising in a calendar year, as further specified in that statute.
15 State Defendants admit RCW 42.17.510 and WAC 390-18-010 generally require identification of
16 the sponsor of political advertising by name and address or name (broadcasts), as further specified
17 in the statute and rule, but assert there are exceptions. State Defendants deny the remaining
18 allegations.

19 54. In response to Paragraph 54, State Defendants assert that paragraph 54 consists of
20 legal argument and conclusions and as such no answer is required. To the extent an answer is
21 required, State Defendants deny the same. State Defendants deny the remaining allegations.

22 55. In response to Paragraph 55, State Defendants assert that paragraph 55 consists of
23 legal argument and conclusions and as such no answer is required. To the extent an answer is
24 required, State Defendants deny the same. State Defendants deny the remaining allegations.

Count 3 – “Political Advertising”

1
2 56. In response to Paragraph 56, State Defendants restate and incorporate by reference
3 all of the responses to the allegations referenced in the paragraphs above.

4 57. In response to Paragraph 57, State Defendants admit Plaintiff is challenging the
5 constitutionality of the political advertising definition. State Defendants deny the definition of
6 political advertising is at RCW 42.17.020(37) and affirmatively allege it is at
7 RCW 42.17.020(38). State Defendants deny the statute reads as alleged in Paragraph 57, due to
8 Plaintiff’s added emphasis. State Defendants deny the remaining allegations.

9 58. In response to Paragraph 58, State Defendants deny the allegations.

10 59. In response to Paragraph 59, State Defendants admit RCW 42.17.103,
11 RCW 42.17.510 and WAC 390-18-010 contain various requirements as described in those
12 statutes and rule governing political advertising. State Defendants deny the characterization as
13 “burdens” and deny the remaining allegations.

14 60. In response to Paragraph 60, State Defendants assert that paragraph 60 consists of
15 legal argument and conclusions and as such no answer is required. To the extent an answer is
16 required, State Defendants deny the same. State Defendants deny the remaining allegations.

17 61. In response to Paragraph 61, State Defendants assert that paragraph 61 consists of
18 legal argument and conclusions and as such no answer is required. To the extent an answer is
19 required, State Defendants deny the same. State Defendants deny the remaining allegations.

20 **Count 4 – “Ratings, Evaluation, Endorsement or Recommendation”**

21 62. In response to Paragraph 62, State Defendants restate and incorporate by reference
22 all of the responses to the allegations in the paragraphs referenced above.

23 63. In response to Paragraph 63, State Defendants admit Plaintiff is challenging the
24 constitutionality of the campaign expenditure reporting requirement at WAC 390-16-206(1).
25 State Defendants admit the referenced language is an excerpt from the rule, but assert it is not the
26 complete rule. State Defendants deny the remaining allegations.

1 64. In response to Paragraph 64, State Defendants assert that paragraph 64 consists of
2 legal argument and conclusions and as such no answer is required. To the extent an answer is
3 required, State Defendants deny the same. State Defendants deny the remaining allegations.

4 65. In response to Paragraph 65, State Defendants assert that paragraph 65 consists of
5 legal argument and conclusions and as such no answer is required. To the extent an answer is
6 required, State Defendants deny the same. State Defendants deny the remaining allegations.

7 66. In response to Paragraph 66, State Defendants assert that paragraph 66 consists of
8 legal argument and conclusions and as such no answer is required. To the extent an answer is
9 required, State Defendants deny the same. State Defendants deny the remaining allegations.

10 **V. PRAYER FOR RELIEF**

11 In response to the Plaintiff's Prayer for Relief, State Defendants deny Plaintiff is entitled
12 to the relief sought, and deny it is entitled to a declaratory judgment, a preliminary injunction,
13 attorneys fees and costs, or other relief.

14 **STATE DEFENDANTS' AFFIRMATIVE DEFENSES**

15 State Defendants hereby assert the following affirmative defenses and base these
16 affirmative defenses upon their current knowledge and information:

- 17 1. The Complaint fails to state a claim upon which relief may be granted.
 - 18 2. This Court lacks subject matter jurisdiction over the Complaint because the
19 Plaintiff lacks standing.
 - 20 3. Plaintiff lacks standing to assert the interests of persons not parties to this
21 action.
 - 22 4. The Complaint fails to establish an actual case or controversy that is justiciable
23 under Article III.
 - 24 5. Plaintiff's claim is not ripe for review by this Court.
 - 25 6. Plaintiff has failed to exhaust its administrative remedies.
- 26

1 7. Plaintiff's claims are barred by laches, and the doctrines of waiver, res judicata
2 and estoppel.

3 8. Plaintiff's claims for injunctive relief fail to meet the requirements for a court to
4 issue a preliminary injunction.

5 State Defendants assert these affirmative defenses based upon information presently
6 available and in order to avoid waiver. State Defendants reserve the right to withdraw any of
7 these affirmative defenses or to assert additional affirmative defenses as further information
8 becomes available.


9 **STATE DEFENDANTS' PRAYER FOR RELIEF**

10 Wherefore, State Defendants pray for a judgment as follows:

- 11 1. Dismissing the Complaint with prejudice;
- 12 2. Declaring the challenged statutes and rule constitutional;
- 13 3. Denying a preliminary and permanent injunction;
- 14 4. Granting State Defendants the costs and disbursements of this action, together
15 with attorney's fees to the extent permitted by law; and,
- 16 5. Granting such additional relief as the Court may deem just and proper.

17 DATED this 8th day of May, 2008.

18 ROBERT M. MCKENNA
19 Attorney General

20 
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