Cascade Party of Washington

The Presidential Ticket and the *Bona Fide* Party.

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The State of Washington will recognize a *minor party* only after it qualifies for the United States Presidential ballot. Cascade Party of Washington (CPW) find this rule a burden on the 1st Amendment rights concerning *forced speech* and *campaign finance*. CPW are requesting the Washington Secretary of State to repeal administrative code forcing the party to appear on the 2024 Washington State U.S. presidential ballot — a forum the party does not want to speak in.

History of Washington Election Rules

Washington started using the *Blanket Primary* in 1935. This was a system where a single candidate, among possible others of the same "major political party", advance from the primary ballot, to the later general election ballot. Both the primary and general ballot could include "minor political parties", however, only candidates within *major* parties could compete with rivals from the same party on the primary ballot.

To qualify as a *major* political party, a political party of whose nominees for president and vice president, United States senator, or a statewide office, received at least five percent of the total vote cast at the preceding state general election in an even-numbered year. A *minor* political party is one that does not meet these qualifications.

In 1996, California voters approved *Proposition 198*, a voting system modeled on Washington's Blanket Primary. This system was eventually deemed unconstitutional on free-association grounds in *California Democratic Party v. Jones*, 530 U.S. 567 (2000).

Washington, therefore, needed a new voting system and its legislature passed a method of exclusive partisan primary ballots. Once implemented, this so-called "*Pick-a-Party*" primary ballot was unpopular with voters. The Washington State Grange then sponsored I-872, *The People's Choice Initiative of 2004*. Voters passed this measure with 59.85 percent of the vote. Three *major* parties challenged the initiative. In 2008, the Supreme Court reversed district and appellate rulings in

favor of the parties and ultimately upheld I-872, *Washington State Grange v. Washington State Republican Party*, 552 U.S. 442 (2008).

I-872 features "descriptive ballots" with the candidate's party preference[1] appearing next to their name. The ballot also features a prominent disclaimer informing voters that the *candidate party preference* does not necessarily mean the party endorses or has nominated the candidate. In essence, to pass U.S. Constitutional muster, Washington ballots are *non-partisan* — as the candidate party preference is only descriptive. Candidates can make most any statement within the party preference, which is limited to sixteen characters[2].

Major / Minor Party Qualifications

The course of law has found a state interest in reasonable ballot access requirements. In the Washington case, *Munro v. Socialist Workers, 479 U.S. 189* (1986) the Court held, "States have a right to require candidates to make a preliminary showing of substantial support in order to qualify for a place on the ballot". *Timmons v. Twin Cities Area New Party*, 520 U.S. 351 (1997) held, "[T]he burden [on the New Party, party] is justified by 'correspondingly weighty' valid state interests in ballot integrity and political stability. States certainly have an interest in protecting the integrity, fairness, and efficiency of their ballots".

Distinguishing party status is useful to state administration of election rules. Qualifying *major* parties gain access to various election related programs. For example, *major* parties are entitled to appoint members to the state's redistricting commission, have PCO elections on the state primary ballot and participate in the state Presidential Primary, among other privileges.

Washington's *non-partisan* descriptive ballots have resulted in only two *partisan*[3] ballots remaining in the state: The office of U.S. President / Vice President and position of Precinct Committee Officer (PCO), respectively.

In 2013, Secretary of State Sam Reed requested *Substitute Senate Bill 5518* to remove outdated language and statutory citations that were no longer relevant with the state's adoption of I-872. Sections (4) and (5) of SB 5518 amended the party qualification rules[4] by striking all of the partisan state races from the state code as

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[1] §7(3) For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, then that preference will be shown after the name of the candidate on the primary and general election ballots by appropriate abbreviation as set forth in rules of the secretary of state. A candidate may express no party or independent preference. Any party or independent preferences are shown for the information of voters only and may in no way limit the options available to voters.

[2] Including spaces.

[3] "Partisan" — meaning a label cue which is actually associated with a political party.

[4] *RCW 29A.04.086* and 2004 c 271 s 103, *29A.04.097* and 2003 c 111 s 116

the election test for party status[5]. Party status dependent on the five-percent threshold was now measured solely on the presidential ballot vote.

Governor Jay Inslee performed a partial veto of SB 5518, striking Sec. (5) of the bill[6]. The governor stated, "Section (5) of the bill contains a change to a definition that could *adversely impact minor political parties* and is not in keeping with the nonsubstantive purposes of this Act" [My emphasis].

Party Recognition

The State defines a "*Bona fide* political party" as "An organization that has been recognized as a *minor* political party by the secretary of state"[7]. Recognition occurs only after meeting the ballot access procedures for the Washington presidential ballot[8] **.**

Summary of Major / Minor Party Qualifications

CPW make no issue with rules serving to manage the State's efficient and orderly regulation of the election administration process. The party is not challenging the *minor* party and independent candidate requirements for appearing on the Washington presidential ballot, nor the five-percent *major* party qualification threshold.

CPW takes issue with how *ballot access* rules have been conflated with *campaign finance* rules.

CPW does not want to appear on the Washington presidential ballot — and should not be required to do so to qualify as a *minor* party to access campaign finance rules which benefit party building and political association in general.

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[5] This status are enabled for four years; until the next presidential election. The five-percent requirement still stood as the test for *major* party status.

[6] "I am returning herewith, without my approval as to Section 5, Substitute Senate Bill 5518 entitled: "AN ACT Relating to making nonsubstantive changes to election laws. "This bill was introduced by request of the Secretary of State to make technical changes to our election laws. The bill removes outdated language and statutory citations that are no longer relevant with the state's adoption of the top-two primary system and amends state election laws to conform to changes in federal law. Section 5 of the bill contains a change to a definition that could adversely impact minor political parties and is not in keeping with the nonsubstantive purposes of this Act. The Secretary of State agrees that keeping the current definition is preferable."

[7] RCW 42.17A.00 6.(a)

[8] WAC 434-208-130 (Endnote i)

Limiting Speech

Socialist Workers and *New Party*, respectively, are *ballot access* issues and do not control in this case — as Washington's *minor* party qualifications act as *limits on campaign finances*.

Washington's procedures for *minor* party ballot qualification *and* campaign finance both rely on the requirements for presidential ballot access. This distinction creates a dilemma for the party and also harms the structure of its association.

If CPW forsakes the presidential ballot effort, or fails to meet its requirements, it is then disqualified from the *campaign finance* rules governing political parties in the state. CPW would no longer be a party, rather, another political committee or PAC operating under those specific rules.

The State has specific campaign finance rules for parties, which are different from rules for PACs or individual campaigns. Contributions to fund certain activities are exempt from individual limits; which means that party and caucus committees may accept unlimited amounts from any contributor earmarked for party building activities including; voter registration, absentee ballot information, precinct caucuses, get-out-the vote campaigns, slate cards and internal expenses. (Endnote[i]).

Buckley v. Valeo

Our argument is based on *Buckley v. Valeo*, 424 U.S. 1 (1976) and its progeny. *Buckley* protects political association and how access to Washington's party finance rules foster political association,

> The First Amendment protects political association as well as political expression. The constitutional right of association explicated in *NAACP v. Alabama*, 357 U. S. 449, 357 U. S. 460 (1958), stemmed from the Court's recognition that '[e]ffective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association.' Subsequent decisions have made clear that the First and Fourteenth Amendments guarantee 'freedom to associate with others for the common advancement of political beliefs and ideas,'' a freedom that encompasses `[t]he right to associate with the political party of one's choice.'" *Kusper v. Pontikes*, 414 U. S. 51, 414 U. S. 56, 414 U. S. 57 (1973), quoted in *Cousins v. Wigoda*, 419 U. S. 477, 419 U. S. 487 (1975).
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> It is with these principles in mind that we consider the primary contentions of the parties with respect to the Act's limitations upon the giving and spending of money in political campaigns. Those

> conflicting contentions could not more sharply define the basic issues before us."

The *Bona Fide* Party

Buckley supports qualifications for a real party – in other words, group bona fides,

> "Appellants argue that these qualifications unconstitutionally discriminate against *ad hoc* organizations in favor of established interest groups and impermissibly burden free association. The argument is without merit. Rather than undermining freedom of association, the basic provision enhances the opportunity of bona fide groups to participate in the election process, and the registration, contribution, and candidate conditions serve the permissible purpose of preventing individuals from evading the applicable contribution limitations by labeling themselves committees."

CPW offers an innovative membership structure which merges private social media with political association. We're an *open source* party — independent of the dominant social media. The course of law states CPW must meet qualifications for official recognition. We are not challenging that, our issue is with the presidential ballot mandate. *Buckley* informs us that it is in the state's interest to guard against corruption within campaign finance. This makes sense, and CPW is ready to gain qualification as a real and new party. Washington also has great campaign disclosure laws which serve the public interest.

Disclosure

Buckley upholds disclosure as "appropriate legislative weapons against the reality or appearance of improper influence stemming from the dependence of candidates on large campaign contributions".

Candidates, political committees and *political parties* in Washington are all required to disclose both contributions collected and expenditures made. The purpose of this law is to inform voters of who is contributing — and how much money— is flowing into elections.

Transparency with contributions and expenditures also serve to stem any potential corruption between a contributor and candidate, political committee or political party.

The burden is upon the State to prove how a political association is somehow corrupt and how the presidential ballot, *minor* party qualification process prevents or remedies *Buckley's* notion of *quid pro quo* campaign contributions. The State's qualifications for the presidential ballot do not prevent corruption and are an undue

burden on political association for parties other than the two dominant *major* parties.

Local Elections

As a result of I-872, public ballots in the state (except president and PCO) are technically *non-partisan* — as the party cues on ballots are descriptive and not indicative of any party nomination. CPW plan to be active in municipal politics, where the ballots lack any descriptive cue. So-called *nonpartisan* ballots used in local elections certainly do not preclude a political association from advocating points of view in conjunction with elected city officials. Political parties can support and coordinate with elected officials and candidates at all levels, and not just during the election season. *Buckley* supports transparent campaign disclosure regardless of any ballot design or level of governmental office.

Summary of Limiting Speech

The State of Washington has hitched its test to qualify as a *minor* party to access fundraising to the highest office in our nation. CPW is on the other end of the spectrum, organizing from the bottom up. This is a very wide chasm for the party to span.

Washington has imposed impermissible campaign finance qualifications on Cascade party of Washington's ability to organize as a political association.

FORCED SPEECH

In the course of seeking *minor* party status, the State is forcing CPW to change its message by attaching a nonsensical "not really" sentiment in its message. CPW has lost its autonomy as a speaker. "When dissemination of a view contrary to one's own is forced upon a speaker intimately connected with the communication advanced, the speaker's right to autonomy over the message is compromised", *Hurley v. Irish-American Gay, Lesbian And Bisexual Group Of Boston*, 515 U.S. 557 (1995).

The CPW seek to be a new voice in Washington politics. Running a presidential ticket — only in one state — changes and harms the Forward message.

The office of U.S. President captures the imagination and emotions of the American voter like no other public election. Some people see independent and 3rd party challenges as hurting their preferred respective Democratic or Republican presidential candidate. The CPW not only wants to avoid this specific criticism[9], the

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[9] "The Brain-Breaking Logic of No Labels" *The group has a reasonable criticism of American politics, but its approach won't help matters.* By David A. Graham (https://www.theatlantic.com/ideas/archive/2024/01/no-labels-logic/677279/)

party must avoid distractions so they can focus on the hard work of building an enduring party choice for voters.

The 2024 Washington presidential ballot is not the only venue where CPW does not want to speak. Qualifying for the ballot also allows a *minor* party to submit a statement and candidate photographs into the state Voter's Pamphlet.

The pamphlet is an important informational guide to voters making choices on their ballot. The state does not edit candidate statements in the pamphlet. CPW is promoting itself as a sincere, good-government group. The party is placed, through no choice of its own, in the ridiculous position of having to explain why it is not running a candidate for president — in the section of the pamphlet featuring the various presidential candidates! A rational party would rather share its points of view on issues affecting our state and country, instead of explaining confounding state rules to voters.

CPW have lost our autonomy. The party is being pushed onto the stage of presidential politics and will be harmed even if they choose to remain silent. Indeed, CPW could choose to not submit a statement and photos to the voters pamphlet, however, this would result in a mostly empty page featuring the party's and candidate's name with the statement "No photo or statement submitted". This is itself another repulsive statement foisted upon the party by the State. This position could make the party appear as non-caring, or even lazy to voters, thus harming its image, along with the serious CPW candidates who could appear in other parts of the pamphlet.

Summary of Forced Speech

The State is forcing CPW to explain its preposterous position of "not really" running candidates for president and vice-president on the state ballot, in the voter's pamphlet and to voters at large. Forward's actual message prominently includes the statement: *"We are not running any candidate, in any state, for the office of president"*. *Hurley* informs us how the State of Washington is not allowed to change this message.

General Summary

Except for the national office of president and vice president, due to the State's descriptive ballots, there is no need for *PARTY ballot access* process in our state elections. The course of campaign finance law allows the state to require qualifications for a party to gain *bona fide* status. Requiring a party to provide a presidential ticket to establish *bona fides* St is outside of the scope of preventing corruption in campaign finance. Forcing Cascade Party of Washington to change its message and is illegal under 1st Amendment protections. Washington lacks enabling

legislation to support what are basically campaign finance restrictions burdening *minor* parties.

We are petitioning the Secretary of State to change WAC 434-208-130 — which has no basis in law and appears to be derived from §5 within SB 5518 (2013), which was vetoed.

Current RCWs require the following qualifications for a political association to be recognized as a *bona fide* party;

- Obtain 1000 valid signatures.
- Signatures are obtained at conventions from May 4th until July 28th of the presidential election year which are attended by at least 100 registered voters. A party can host multiple conventions in this period.
- Publish a legal notice in a paper of record announcing time and location of the party convention.

Cascade Party of Washington are willing to meet these requirements to gain *bona fide* party status. CPW does not want to run a presidential ticket.

END NOTES

[i] **Exempt & Non-Exempt Accounts**

Initiative 134, approved by voters in 1992, limited how much money a contributor may give certain candidates as well as contributions that corporations, labor organizations, associations and other donors who are not individuals may give to bona fide political party and caucus campaign committees. Contributions to other types of committees are not limited, except for a restriction during the last three weeks before the general election.

Exempt funds

Contributions to fund certain activities are exempt from limits, which means that party and caucus committees may accept unlimited amounts from any contributor earmarked for:

- voter registration,*
- absentee ballot information*
- precinct caucuses*
- get-out-the vote campaigns*
- precinct judges or inspectors*
- ballot counting*
- slate cards (see below)
- sample ballots (see below)
- internal expenses or fund raising to pay for internal expenses without direct association with individual candidates, or
- an expenditure or contribution for independent expenditure or electioneering communication as defined in RCW 42.17A.005.

* When these activities are paid for with exempt funds, they cannot promote or advertise individual candidates. RCW 42.17A.405(15).

Slate cards & Sample ballots: What's the difference?

Sample ballots: A sample ballot has a list of the candidates that will appear on an upcoming ballot, with indications such as a check marks that indicate which candidates the sponsor of the sample ballot endorses. If a sample ballot is created and distributed according to the rules below, it is not an in-kind contribution to the candidates supported by it, and it may be paid for using a party committee's exempt funds.

Slate Cards: A slate card is a list of candidates endorsed by the sponsor of the slate card. If created and distributed according to the rules below, a slate card is not an in-kind contribution to the candidates listed on the card and may be created and distributed using a party committee's exempt funds.

In order not to count against a person's contribution limit to the candidates listed on it and to be paid for with exempt funds, a slate card or sample ballot must satisfy these criteria:

- It must list the names of at least three candidates for election to public office in Washington state and be distributed in a geographical area where voters are eligible to vote for at least three candidates listed. The candidate listing may include any combination of three or more candidates, whether the candidates are seeking federal, state, or local office in Washington.
- It may not be distributed through public political advertising, for example, through broadcast media, newspapers, magazines, billboards, or the like. It may be distributed through direct mail, telephone, electronic mail, websites, electronic bulletin boards, electronic billboards, or personal delivery.
- Content is limited to:
  - Identifying each candidate – pictures may be used

- Office of position currently held
- Office sought
- Party affiliation
- Information about voting hours and locations.

- No biographical data on candidates and their positions on issues or statements about the sponsor's philosophy, goals, or accomplishments may be included.
- A slate card may not have-references to ballot measures.
- The slate card or sample ballot is a stand-alone political advertisement. It may not be part of a more comprehensive message or combined in the same mailing or packet with any other information, including get-out-the vote material, candidate brochures, or statements about the sponsor's philosophy, goals, or accomplishments. Online, it must be segregated as a separate document. As a political advertisement, a slate card may include a statement that the candidates listed are endorsed by the sponsor of the slate card.
- A sample ballot may include ballot propositions which are on the local ballot, but it must exclude any statements, check marks or other indications showing support of or opposition to ballot propositions, and follow the guidelines given in WAC 390-17-030.

Non-Exempt Funds

The party and caucus committees may use non-exempt funds for all expenditures. The committees must use non-exempt funds for candidate contributions and any expenditure not included in the above list.